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ALLEGED ASSAULT UPON SENATOR SUMNER.

JUNE 2, 1856.—Laid upon the Speaker's table and ordered to be printed.

Mr. L. D. CAMPBELL, from the Select Committee, made the following

R E P O R T .

[Mr. HOWELL COBB submitted the views of the minority, herewith printed.]

The select committee appointed under the resolution of the House, passed on the 23d day of May, 1856, to investigate the subject of the assault alleged to have been made in the Senate chamber, by the Hon. Preston S. Brooks, and other members of the House, upon the Hon. Charles Sumner, a senator from the State of Massachusetts, and to whom the House referred the proceedings of the Senate, announcing that they—a co-ordinate branch of Congress—"make complaint to the House of Representatives of the assault committed by one of its members—the Hon. Preston S. Brooks—upon the Hon. Charles Sumner, a senator from the State of Massachusetts," having taken such testimony as was accessible to them, beg leave to make the following report, with the accompanying testimony:

The committee, upon a full investigation of the subject, concur in the following conclusions, which the Senate seem unanimously to have declared:

1. "That the Hon. Preston S. Brooks, a member of the House of Representatives from the State of South Carolina, did, on the 22d day of the present month, after the adjournment of the Senate, and while Mr. Sumner was seated at his desk in the Senate chamber, assault him with considerable violence, striking him numerous blows on or about the head with a walking stick, which cut his head, and disabled him for the time being from attending to his duties in the Senate."

2. "That this assault was a breach of the privileges of the Senate."

3. That "the Senate, for a breach of its privileges, cannot arrest a member of the House of Representatives, and, *a fortiori*, cannot try and punish him; that such authority devolves upon the House of which he is a member," and, therefore, "that it is not within the jurisdiction of the Senate, and can only be punished by the House of Representatives, of which Mr. Brooks is a member."

The committee therefore report back the complaint of the Senate, with the journal of their proceedings and the testimony taken in the premises, pursuant to the resolution of the House.

The testimony discloses the following facts:

On Monday and Tuesday, the 19th and 20th days of May, 1856, Mr. Sumner delivered a speech in the Senate, in reply to a senator from South Carolina, (Mr. BUTLER,) and other senators, an authenticated copy of which is appended to the accompanying testimony, and forms a part of this report.

It appears that, as early as Tuesday, before the speech was concluded, Mr. Brooks took exception to the remarks of the senator; and that on Wednesday morning, after the delivery of the speech, he declared to Mr. Edmundson, of the House, by whom he was casually met, in the Capitol grounds, a short time before the meeting of the two Houses, that he had determined to punish Mr. Sumner, unless he made an ample apology for the language he had uttered in his speech, and expressed a desire that Mr. Edmundson should be present as a witness to the transaction; that they thereupon took a seat near the walk leading from Pennsylvania avenue to the Capitol, and there remained some fifteen minutes, awaiting the approach of Mr. Sumner; and he not making his appearance, they then proceeded to the Capitol.

On Thursday morning he was again casually met by Mr. Edmundson at the western entrance of the Capitol grounds, on Pennsylvania avenue, a point which commands a view of all the approaches to the Capitol from that portion of the city in which Mr. Sumner resides. Here Mr. Brooks informed Mr. Edmundson that he was on the lookout for Mr. Sumner, and again declared his purpose to resent the language of Mr. Sumner's speech; and after remaining for a short period, Mr. Sumner not approaching, the two again proceeded to the Capitol.

After the reading of the journal of the House on Thursday, the death of the honorable Mr. Miller, of Missouri, was announced, addresses delivered, the customary resolutions adopted, and thereupon the House adjourned.

When the message was received by the Senate from the House, announcing the death of Mr. Miller, a tribute of respect was paid to the deceased by Senator Geyer, in an address, and that body thereupon also adjourned. Most of the Senators left the Senate chamber, a few only remaining. Mr. Sumner continued in his seat engaged in writing. Mr. Brooks approached, and, addressing a few words to him, immediately commenced the attack by inflicting blows upon his bare head, whilst he was in a sitting posture, with a large and heavy cane. Stunned and blinded by the first blow, and confined by his chair and desk, Mr. Sumner made several ineffectual efforts to rise, and finally succeeded by wrenching his desk from its fastenings. The blows were repeated by Mr. Brooks with great rapidity and extreme violence, while Mr. Sumner, almost unconscious, made further efforts of self-defence, until he fell to the floor under the attack, bleeding and powerless.

The wounds were severe and calculated to endanger the life of the Senator who remained for several days in a critical condition. It appears that the blows were inflicted with a cane, the material of which was about the specific gravity of hickory or whalebone, one inch in diameter at the larger end, and tapering to the diameter of about five-eighths of an inch at the smaller end. It is not too much to say that

the weapon used was of a deadly character, and that the blows were indiscriminately dealt, at the hazard of the life of the assailed.

The committee have extended to the parties implicated the fullest facilities for taking exculpatory testimony. There is no proof to show, nor has it been in any way intimated, that Mr. Brooks at any time, in any manner, directly or indirectly, notified Mr. Sumner of his intention to make the assault. There is no evidence that Mr. Sumner ever carried weapons, either for the purpose of attack or defence; on the contrary, it appears that he did not anticipate personal violence until at the instant he received the first blow, and that he was not armed or otherwise prepared in any respect for self defence.

There is no evidence beyond the character of the attack tending to show an intention on the part of Mr. Brooks to kill the Senator, his expressions being that he did not intend to kill, but to punish him; but the committee cannot but regard the assault as a most flagrant violation, not only of the privileges of the Senate and of the House, as co-ordinate branches of the legislative department of the government, and the personal rights and privileges of the Senator, but of the rights of his constituents and of our character as a nation. It was premeditated during a period of at least two days, without any other provocation than words lawfully spoken in debate in the Senate chamber, not ruled out of order by the President of the Senate, nor objected to by any Senator as violative of the rules established for the government and order of that body.

The act cannot, therefore, be regarded by the committee otherwise than as an aggravated assault upon the inestimable right of freedom of speech guarantied by the Constitution. It asserts for physical force a prerogative over governments, constitutions, and laws; and, if carried to its ultimate consequences, must result in anarchy and bring in its train all the evils of a "reign of terror."

The committee therefore, in conformity to the spirit of the resolution of the House, and their sense of public duty, are constrained to recommend to the House the passage of such a resolution as will vindicate its own character and rebuke the member who has, so unhappily for himself and the country, perpetrated this great wrong.

The committee do not discuss the powers of the House to punish its disorderly members, nor do they undertake to argue the general question as to what constitutes a breach of privilege. The passage of the resolution raising the committee is regarded as a declaration on the part of the House of its power to call its members to account for such acts as violate the privileges of the Senate. This assault having been committed by a member upon a Senator "whilst remaining in his seat in the Senate chamber in the performance of the duties pertaining to his official station," and for words there spoken in debate, the committee have no doubt of the right or power of the House to adopt the resolutions which they recommend.

No testimony has been taken, nor are the committee aware of any, which shows that any other member of the House was either actively engaged in the assault or designed to commit any violence upon Mr. Sumner, nor that any other member knew the "*precise time when*" or "*the place where*" Mr. Brooks would assail him. It does appear, how-

ever, that the Hon. Henry A. Edmundson, of Virginia, and the Hon. Lawrence M. Keitt, of South Carolina, members of the House, had been previously informed of the purpose of Mr. Brooks to commit the assault upon Mr. Sumner, and that they anticipated that the assault would take place in or near the Senate chamber about the time the occurrence did take place. Mr. Keitt was in the Senate chamber and Mr. Edmundson in a room adjoining it at the time the attack was made; and it is proved that Mr. Keitt rushed up with a cane in a threatening manner when the bystanders attempted to protect Mr. Sumner from the blows of Mr. Brooks, and that Mr. Edmundson entered the chamber soon after Mr. Sumner fell.

The committee do not feel themselves justified in expressing the opinion upon the testimony that either of these members was a principal or accessory in the assault, but regard their conduct in the transaction—and particularly in not taking steps to prevent the perpetration of the wrong, or to inform the Senator of his danger—as reprehensible. The committee therefore recommend the adoption of the following resolutions:

Whereas, the Senate of the United States have transmitted to this House a message, complaining that Preston S. Brooks, a Representative from the State of South Carolina, committed upon the person of Charles Sumner, a Senator from the State of Massachusetts, while seated at his desk in the Senate chamber, after the adjournment of that body on the 22d of May last, a violent assault, which disabled him from attending to his duties in the Senate, and declaring that the said assault was a breach of the privileges of that body: And whereas, from respect to the privileges of the House, the Senate have further declared that, inasmuch as the said Preston S. Brooks is a member of this House, they cannot arrest, and, *a fortiori*, cannot try or punish him for a breach of their privileges, that they cannot proceed further in the case than to make their complaint to this House, and that the power to arrest, try, and punish, devolves solely on this body: And whereas, upon full investigation, it appears to this House that the said Preston S. Brooks has been guilty of the assault complained of by the Senate, with most aggravated circumstances of violence; that the same was a breach of the privileges not only of the Senate, but of the Senator assailed, and of this House, as a co-ordinate branch of the legislative department of government, in direct violation of the Constitution of the United States, which declares that Senators and Representatives “for any speech or debate in either House shall not be questioned in any other place:” And whereas, this House is of opinion that it has the power and ought to punish the said Preston S. Brooks for the said assault, not only as a breach of the privileges of the Senator assailed, and of the Senate and House, as declared by the Constitution, but as an act of disorderly behavior: And whereas, it further appears, from such investigation, that Henry A. Edmundson, a Representative from the State of Virginia, and Lawrence M. Keitt, a Representative from the State of South Carolina, some time previous to the said assault, were informed that it was the purpose of the said Preston S. Brooks to commit violence upon the person of said Charles Sumner, for words used by him in debate, as a Senator in the Senate,

and took no measures to discourage or prevent the same; but, on the contrary, anticipating the commission of such violence, were present on one or more occasions to witness the same, as friends of the assailant: therefore

Resolved, That Preston S. Brooks be, and he is forthwith, expelled from this House as a Representative from the State of South Carolina.

Resolved, That this House hereby declare its disapprobation of the said act of Henry A. Edmundson and Lawrence M. Keitt in regard to the said assault.

LEWIS D. CAMPBELL,
F. E. SPINNER,
A. C. M. PENNINGTON.

MINORITY REPORT.

Mr. COBB submitted the following minority report:

The undersigned, a minority of the select committee appointed under the resolution of the House of the 23d May, 1856, to report upon the assault alleged to have been made by the honorable PRESTON S. BROOKS, a member of the House, from the State of South Carolina, upon the honorable CHARLES SUMNER, a Senator of the United States, from the State of Massachusetts, on the 22d of May; and to whom was also referred the message from the Senate on the same subject, finding themselves unable to agree with the majority of the committee in the conclusions to which they have come, submit this minority report as the reasons of their dissent from the report of the majority.

It appears, from the evidence before the committee, that, on the 19th and 20th of May, Mr. Sumner delivered in the Senate of the United States, and subsequently published in pamphlet form for circulation, a speech from which we make the following extracts:

“But, before entering upon the argument, I must say something of a general character, particularly in response to what has fallen from Senators who have raised themselves to eminence on this floor in championship of human wrongs; I mean the Senator from South Carolina, (Mr. BUTLER,) and the Senator from Illinois, (Mr. DOUGLAS,) who, though unlike as Don Quixote and Sancho Panza, yet, like this couple, sally forth together in the same adventure. I regret much to miss the elder Senator from his seat; but the cause against which he has run a tilt with such activity of animosity demands that the opportunity of exposing him should not be lost; and it is for the cause that I speak. The Senator from South Carolina has read many books of chivalry, and believes himself a chivalrous knight, with sentiments of honor and courage. Of course he has chosen a mistress, to whom he has made his vows, and who, though ugly to others, is always lovely to him; though polluted in the sight of the world, is chaste in his sight—I mean the harlot slavery. For her, his tongue is always profuse in words. Let her be impeached in character, or any proposition made to shut her out from the extension of her wantonness, and no

extravagance of manner or hardihood of assertion is then too great for this Senator. The frenzy of Don Quixote, in behalf of his wench Dulcinea del Toboso, is all surpassed. The asserted rights of slavery, which shock equality of all kinds, are cloaked by a fantastic claim of equality. If the slave States cannot enjoy what, in mockery of the great fathers of the republic, he misnames equality under the Constitution—in other words, the full power in the national territories to compel fellow-men to unpaid toil, to separate husband and wife, and to sell little children at the auction block—then, sir, the chivalric Senator will conduct the State of South Carolina out of the Union! Heroic knight! Exalted Senator! A second Moses come for a second exodus!

“But not content with this poor menace, which we have been twice told was ‘measured,’ the Senator, in the unrestrained chivalry of his nature, has undertaken to apply opprobrious words to those who differ from him on this floor. He calls them ‘sectional and fanatical;’ and opposition to the usurpation in Kansas, he denounces as “an uncalculating fanaticism.” To be sure, these charges lack all grace of originality, and all sentiment of truth; but the adventurous Senator does not hesitate. He is the uncompromising, unblushing representative on this floor of a flagrant *sectionalism*, which now domineers over the republic, and yet with a ludicrous ignorance of his own position—unable to see himself as others see him—or with an effrontery which even his white head ought not to protect from rebuke, he applies to those here who resist his *sectionalism* the very epithet which designates himself. The men who strive to bring back the government to its original policy, when freedom and not slavery was national, while slavery and not freedom was sectional, he arraigns as *sectional*. This will not do. It involves too great a perversion of terms. I tell that Senator, that it is to himself, and to the ‘organization’ of which he is the ‘committed advocate,’ that this epithet belongs. I now fasten it upon them. For myself, I care little for names; but since the question has been raised here, I affirm that the republican party of the Union is in no just sense *sectional*, but, more than any other party, *national*; and that it now goes forth to dislodge from the high places of the government the tyrannical sectionalism of which the Senator from South Carolina is one of the maddest zealots.” * * * *

“With regret I come again upon the senator from South Carolina, [Mr. Butler,] who, omnipresent in this debate, overflowed with rage at the simple suggestion that Kansas had applied for admission as a State; and, with incoherent phrases, discharged the loose expectoration of his speech, now upon her representative, and then upon her people. There was no extravagance of the ancient parliamentary debate which he did not repeat; nor was there any possible deviation from truth which he did not make, with so much of passion, I am glad to add, as to save him from the suspicion of intentional aberration. But the senator touches nothing which he does not disfigure—with error, sometimes of principle, sometimes of fact. He shows an incapacity of accuracy, whether in stating the Constitution or in stating the law, whether in the details of statistics or in the diversions of scholarship. He cannot open his mouth, but out there flies a blun-

der. Surely he ought to be familiar with the life of Franklin ; and yet he referred to this household character, while acting as agent of our fathers in England, as above suspicion ; and this was done that he might give point to a false contrast with the agent of Kansas—not knowing that, however they may differ in genius and fame, in this experience they are alike ; that Franklin, when intrusted with the petition of Massachusetts Bay, was assaulted by a foul-mouthed speaker, where he could not be heard in defence, and denounced as a ‘ thief,’ even as the agent of Kansas has been assaulted on this floor, and denounced as a ‘ forger.’ And let not the vanity of the senator be inspired by the parallel with the British statesman of that day ; for it is only in hostility to freedom that any parallel can be recognized.”

“ But it is against the people of Kansas that the sensibilities of the senator are particularly aroused. Coming, as he announces, ‘ from a State ’—ay, sir, from South Carolina—he turns with lordly disgust from this newly-formed community, which he will not recognize even as ‘ a body politic.’ Pray, sir, by what title does he indulge in this egotism ? Has he read the history of ‘ the State ’ which he represents ? He cannot surely have forgotten its shameful imbecility from slavery, confessed throughout the revolution, followed by its more shameful assumptions for slavery since. He cannot have forgotten its wretched persistence in the slave trade as the very apple of its eye, and the condition of its participation in the Union. He cannot have forgotten its constitution, which is republican only in name, confirming power in the hands of the few, and founding the qualifications of its legislators on ‘ a settled freehold estate or ten negroes.’ And yet the senator, to whom that ‘ State ’ has in part committed the guardianship of its good name, instead of moving, with backward treading steps, to cover its nakedness, rushes forward, in the very ecstasy of madness, to expose it, by provoking a comparison with Kansas. South Carolina is old ; Kansas is young. South Carolina counts by centuries, where Kansas counts by years. But a beneficent example may be born in a day ; and I venture to say, that against the two centuries of the older ‘ State,’ may be already set the two years of trial, evolving corresponding virtue, in the younger community. In the one, is the long wail of slavery ; in the other, the hymns of freedom.

“ And if we glance at special achievements, it will be difficult to find anything in the history of South Carolina which presents so much of heroic spirit in an heroic cause as appears in that repulse of the Missouri invaders by the beleagured town of Lawrence, where even the women gave their effective efforts to freedom. The matrons of Rome, who poured their jewels into the treasury for the public defence ; the wives of Prussia, who, with delicate fingers, clothed their defenders against French invasion ; the mothers of our own revolution, who sent forth their sons, covered over with prayers and blessings, to combat for human rights, did nothing of self-sacrifice truer than did these women on this occasion. Were the whole history of South Carolina blotted out of existence, from its very beginning down to the day of the last election of the senator to his present seat on this floor, civilization might lose—I do not say how little, but surely less than it has already gained by the example of Kansas, in its valiant struggle

against oppression, and in the development of a new science of emigration. Already, in Lawrence alone, there are newspapers and schools, including a high school; and throughout this infant Territory there is more of mature scholarship, in proportion to its inhabitants, than in all South Carolina. Ah, sir, I tell the senator that Kansas, welcomed as a free State, will be a 'ministering angel' to the republic, when South Carolina, in the cloak of darkness, which she hugs, 'lies howling.'"

These extracts contain language, which, in the opinion of Mr. Brooks, was insulting to the State of South Carolina, which he, in part, represented, and personally offensive to Senator Butler, of the same State, his relative and kinsman, and who was absent from the city at the time of the delivery of the speech. On the 22d day of May, two days after its delivery, Mr. Butler being still absent, Mr. Brooks approached Mr. Sumner in the Senate chamber, after the adjournment of that body, and addressed to him the following language: "Mr. Sumner, I have read your speech carefully, and with as much calmness as I could be expected to read such a speech. You have libeled my State, and slandered my relation, who is aged and absent, and I feel it to be my duty to punish you for it."

He then struck Mr. Sumner with his walking cane, giving him repeated and severe blows.

It appears, also, from the testimony, that Mr. Edmundson, of Virginia, and Mr. Keitt, of South Carolina, both members of the House, had been told by Mr. Brooks that he intended to call Mr. Sumner to account for the offensive portion of the speech already alluded to, and did not communicate that fact to Mr. Sumner, or to any other person as far as the committee are informed; but neither of them knew when or where Mr. Brooks intended to execute his purpose, nor does it appear that Mr. Brooks had informed any other person of his intention. The question presented for our consideration upon this state of facts is: Do these facts involve a breach of the privileges of the Senate, or of the House, or of any member thereof, over which the House can take any remedial jurisdiction, or for which it can inflict any punishment? and, if so, what course it becomes the House to pursue in reference to the matter?

Our first inquiry is: what are the privileges of the Senate, and of the House? Where are they to be found? Ours is a government of delegated power. The Constitution prescribes the duties of the executive, legislative, and judicial departments of the government. It will not be questioned by any one that neither these three departments combined, nor any one of them alone, can exercise any power which is not derived from the Constitution. We hold that the privileges of the Senate and of the House must be looked for in the same instrument, and that none exist except those which are expressly declared in the Constitution, or set forth in some law passed in pursuance thereof, or some rule adopted under the authority of the same. It would be strange indeed if the framers of the Constitution should have denied to all the departments of the government collectively, as well as to each individually, the exercise of any other than the powers expressly delegated to them, and yet should have left to the two Houses,

the right to claim and exercise privileges independent of the grants of the Constitution.

Congress can pass no law subjecting any citizen to punishment, unless it shall be in pursuance of a power delegated by the Constitution; nor can the executive exercise any authority, unless it be derived from the same source. If, however, we are permitted to look for the privileges of the Senate and of the House to some other quarter than to the Constitution, it would present the strange anomaly of denying to the two bodies in their legislative capacity the exercise of inherent or inferential powers, affecting the liberty of the citizen, and yet granting to either one, in its separate position, the exercise of such a power. It would seem necessary only to state the proposition, and that its bare statement would carry with it its own refutation.

It is claimed that the Senate and House each possesses the inherent right to declare what its privileges are, and to punish for the violation of them. If this doctrine be true, then the House has the power to declare that an act committed to-day, which is in violation of no provision of the Constitution, no law of the land, no rule of the House, and which is therefore, so far as the citizen may be informed, innocent in itself, a violation and a breach of its privileges, and to inflict punishment for the same.

The admission of such a right would constitute either House of Congress a legislative, judicial, and an executive power combined; having the power of a legislature to pass the law, the power of a judge to expound it, and the power to execute it. A more perfect despotism never has and never can exist than—if such be the fact—does exist in either branch of Congress.

To appreciate properly the enormity of this power, and the abuse to which its exercise might lead, it is only necessary to add, that from the very nature of the case, this law thus made, and thus enforced, is an *ex post facto* law directly violative of the letter of the constitution and repugnant to the whole spirit of our American institutions.

We are directed by the advocates of these privileges to the parliamentary law of England, as the source from which they are derived. We cannot recognize that the privileges claimed and exercised by the British parliament have been adopted into our system of government; and before the public mind of this country acquiesces in such a doctrine, it would be well to examine, with some care, the extent to which it has been carried in England, and the power which has been exercised by Parliament under its claim. From small and obscure beginnings, it has been constantly increasing and strengthening, until its exercise, even in England, has alarmed the apprehensions of a people less blessed with free institutions than we are.

In England the privileges of Parliament rest for their sanction and support upon the omnipotence of Parliament. It will hardly be contended that that omnipotence has been transferred with Parliamentary law to our Congress. In England these privileges are still progressing, owing to the fact that they studiously reject all definition of them, the doctrine being that their "dignity and independence are preserved by keeping their privileges indefinite, and that the

maxims on which they proceed, together with the method of proceeding rest entirely in their own breast, and are not defined and ascertained by any particular stated laws."

For the purpose of placing before the House for their consideration some of the precedents of the British Parliament, we submit an extract taken from an able minority report presented to this House in 1828, by Hon. P. P. Barbour, of Virginia, in which a few of these precedents have been collected:

"A man by the name of Cranfield was fined £500 each to four members whom he had slandered. Lord Saville was committed to the tower for refusing to name the person who had written a letter to him, which Parliament had thought treacherous. In 1547, an order was made for several members of the House to take some of the deputies of the sergeant-at-arms, and to break open the doors and seize the trunks and papers of one Captain Vernon.

"In 1654, a schoolmaster was examined for an Arian book; the book was burned by the hands of the hangman. He was confined in Newgate, and then banished to the isle of Scilly. There is a case which is remarkable for the caprice which dictated the punishment: two persons were placed back to back on a horse, and, with a label specifying the offence, made to ride in this manner round Charing-cross; and that, too, for arresting a member's servant, in violation of a privilege not now claimed. As, however, it may be objected to some of these precedents that they occurred in bad times—that is, during the period of the long parliament—some more modern ones will now be quoted:

"In the case of *Shirley vs. Fagg*, in the twenty-seventh of Charles the Second, the House of Commons maintained that an appeal taken from the court of chancery to the House of Lords, by Shirley against Fagg, who was one of their members, was a breach of their privileges.

"In another case, which was an appeal taken by Crispe against Delmahoy, who was a member, they imprisoned the sergeants and barristers who had pleaded for Crispe, contrary to an order of the House, as for a breach of privilege.

"In the case of Admiral Griffith, a member, certain persons who had trespassed on his fishery were found guilty of a breach of privilege, and were ordered to stand committed, and were afterwards discharged, after being reprimanded on their knees, and paying the costs. And even as late as about the year 1811, Sir Francis Burdett was committed to the tower of London for a breach of privilege in writing or publishing a libel, as it was deemed by the House of Commons. In times more remote, judges were put in custody of the sergeant-at-arms; and in one instance, Judge Berkley was taken off his bench in Westminster Hall, by the usher of the black rod, to the great terror of his brethren; but the instances quoted, of counsel being imprisoned for arguing a cause, and persons ordered to be committed for an alleged trespass, are strong illustrations of the position that no man or set of men can safely be trusted with the unrestrained power of judging and punishing in their own case. It is not sufficient to say that the House will not follow such absurd precedents; once let it be settled that it

depends upon their discretion alone to decide whether there is a contempt or breach of privilege, and to decide both the kind and measure of punishment, without the power of any other tribunal to relieve, then, the citizen's claim to liberty is not a matter of *right*, but of *sufferance*."

And, for the purpose of more fully illustrating the extent and enormity of these privileges, as exercised by the British Parliament, we add to the foregoing collation a few additional instances, although the number could be multiplied indefinitely.

"13th June, 1626. George Gardner, for scandalizing the justice of this House, and for unjustly slandering the lord keeper, was ordered to stand in the pillory at Westminster with a paper on his head declaring his offence, and to ride backward with the same paper to the cross in Cheapside, and so to stand in the pillory there, and so to ride backward to the Fleet. And though the lord keeper did earnestly desire this punishment might be forgiven Gardner, yet the House denied it.

"12th June, 1628. Ensign Reyndes, for ignominious speeches, and a contempt for this high court of Parliament, was adjudged 'never to bear arms, to be unworthy to be a soldier, to imprisonment during pleasure, to stand in the pillory, and to ask forgiveness, and fined.'

"1st March, 1676. Dr. Carey was fined £1,000 for refusing to discover his knowledge of a libel, and to be committed to the tower until he pays the same.

"22d February, 1695. The House was informed that there was a paper delivered at the door, reflecting on the House, by Robert Crossfield; whereupon he was called in and owned the paper, but refusing to give the House an account who printed it, he was ordered into custody."

It is thus seen that the British Parliament, under the doctrine of privilege, exercised an unlimited power of fine and imprisonment, and in some of the cases cited have gone so far as to banish the citizen from the realm. In other cases they have caused private dwellings to be searched, and without other authority of law than that exercised by virtue of their assumed privilege, have seized and destroyed the property of the citizen. Will it be contended that such powers can be exercised by either House of Congress? If Congress derive its privileges from the parliamentary law, and that parliamentary law recognizes no other restraint except the wisdom and the justice of those who exercise the power, then it is for each House of Congress, at the time of the commission of any act which it may think proper to regard as a violation of its privileges, so to determine, to declare that such act is a violation of its privileges, and to inflict such punishment as it in its discretion may determine upon. To this extent must the doctrine be carried if we look to that source at all, to ascertain the privileges of either House of Congress. The whole parliamentary law on the subject must either be repudiated or adopted. If we adopt it, we have then existing in our country a body of men, authorized, after the commission of an act, to declare that act a violation of congressional privilege, fulminate a punishment for it, and execute the same; though, at the time the act was committed, neither the person committing it, nor the members of the body themselves, enter-

tained the idea that its commission would be attended with such results. So monstrous a doctrine, in our judgment, cannot and ought not to be maintained.

We cannot concur in the doctrine that powers, such as we have seen have been exercised by the British Parliament, under the claim of privilege, exist in the Houses of Congress. The framers of our Constitution manifested too much care and anxiety for the protection of the liberty and property of the citizen, to suppose that they intended to clothe each House of Congress with such unlimited control over both liberty and property. In express terms they declared in the Constitution that "the trial of all crimes, except in cases of impeachment, shall be by jury." By the fifth amendment to the Constitution, it was provided, that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law."

These provisions of the Constitution announce great and fundamental principles for the protection of the character, reputation, liberty, and property of the citizen. Our people have been accustomed to look to them with reverential regard. The idea of depriving a citizen of either his liberty or his property, or subjecting his good name to any unjust imputation, without "due process of law," shocks all our notions of constitutional liberty. Neither the federal nor State governments, in the exercise of all the powers granted to them respectively, are permitted to set at defiance these plain and sacred principles; but it is maintained that congressional privilege, more potent than all these, rises above the organic law, and, planting itself upon the precedents of the British Parliament, carries in the bosom of members of Congress unknown and undeclared laws, which can be declared and enforced by the parties in interest simultaneously with the commission of the act. If this doctrine be true, the Constitution ought to read, that "the citizen shall not be deprived of property or liberty, without due process of law," unless it be necessary to vindicate the privileges of the two Houses of Congress, or some member thereof.

We find, in the decision to which the majority of the committee have come, in this case, a striking illustration of the danger of leaving this question to the discretion of a majority of the House. They have not only claimed the right to punish one of the members of the House for an alleged assault upon a member of the Senate, but they also claim that it is a breach of the privileges of the House for one of their members to be aware of the fact that it is the purpose of any other member to call to account a Senator for a personal offence, and fail to disclose that fact either to the Senator who is thus threatened, or to some other person. If the House confirm the report of the majority by the passage of the resolution proposed by them, in reference to Messrs. KETT and EDMUNDSON, it will have solemnly declared that, while they are not accessories to the assault committed by Mr.

BROOKS—the majority expressly relieving them from that charge—yet they have been guilty of the grave offence of a breach of the privileges of the House, in the fact that they knew it was the purpose of Mr. BROOKS to call Mr. SUMNER to account, and perhaps to inflict upon him the assault which he made, and failed to communicate that fact to Mr. SUMNER. Although the punishment of these gentlemen, as proposed by the majority, will not compare in severity with the cases which we have cited from the British precedents, yet we are disposed to believe that the doctrine of privilege is extended in this case beyond anything ever claimed for it in the British Parliament. Impressed, then, as we are with these considerations, and seeing the dangerous extent to which this doctrine has been carried in England, and the tendency of the public mind even here, when the cool judgment of members is carried away and inflamed by peculiar circumstances surrounding the case, we feel it to be our imperative duty to arrest this doctrine in its progressive course, and seek, if possible, to bring back the House to the path prescribed for it in the Constitution of the country.

Another principle upon which this claim of privileges has been put is the necessity of the case. The argument is, that, as there is no express provision for protecting the two Houses of Congress in the exercise of their legislative duties from interruption and disturbance, therefore, from the necessity of the case, they must exercise powers not delegated by the Constitution. We cannot see any good reason why either House of Congress should derive power and authority from such a source which would not apply with equal force to Congress sitting as a legislative body, or to the Executive in the discharge of his peculiar duties; and yet no one will contend that any necessity can arise which would justify either the executive or the legislative department of the government in the exercise of powers not delegated by the Constitution.

If experience discloses the fact that some power is wanted to render efficient the discharge of their duties by the two Houses of Congress, which the wisdom of our fathers has not provided for, we offer the same reply to their demand for the exercise of additional power that we would make to the legislative, the executive, or the judicial department of government, or to all of them combined; and that is, that no necessity can justify the exercise of undelegated powers. If the discharge of the duties imposed on you by the Constitution require the exercise of powers other than those you are now possessed of, you must go to the source from which all constitutional power is derived, and seek that in an amendment to the Constitution, which you cannot obtain on the mere plea of necessity. If the Constitution is deficient, amend it; and if the law is defective, amend that.

It would be a strange reflection upon the wisdom of the framers of the Constitution, to suppose that they had exercised so much care and caution in guarding the rights of the States, and the rights of the citizen against the usurpation of power upon the part of the federal government; and yet, while they manifested an unwillingness to trust any indefinite power in the hands of the three departments of government combined, they acting as mutual checks upon each other, they could have contemplated that one branch, to wit, either the

Senate or the House, of one of these departments could exercise such powers as are now claimed for them. Yet such is the doctrine of privilege.

We do not believe, however, that any such omission, as a failure to provide for the protection of Congress, has occurred in the organization of our government. It will be found, upon looking into the provisions of the Constitution, that this danger has been amply guarded against without resorting to the perilous expedient of seeking for remedies to supposed defects in the Constitution, in the undefined doctrines of parliamentary privilege.

We turn, then, from all those supposed sources of congressional privilege to the Constitution of the country, as the only source from which any power can be derived by Congress, or either branch thereof. The fact that the framers of the Constitution guarantied in that instrument certain privileges to the two Houses and to the members thereof is a strong, if not a conclusive argument, that none other were intended by them to be exercised—“*expressio unius est exclusio alterius.*” If they contemplated that Congress should look to the parliamentary law for its privileges, and the privileges of its members, it would have been worse than useless to have incorporated into the Constitution some of the privileges of Congress and of its members, which, in this view of the case, would have been already amply provided for in the parliamentary law.

The privileges of the two Houses and of the members thereof are distinctly laid down in the fifth and sixth sections of the first article of the Constitution :

“Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business ; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.”

“Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.”

“The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at their respective Houses, and in going to and returning from the same ; and for any speech or debate in either House they shall not be questioned in any other place.”

The powers and privileges conferred by these two provisions of the Constitution, in connexion with the express authority also given in that instrument, “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof,” will, in our judgment, render unnecessary, as it is clearly improper and unauthorized, to go back to the law of the British Parliament in search for peculiar and exclusive privileges. The power is here expressly given to each House to de-

termine the rules of its proceedings, and to punish its own members for disorderly behavior. How far they may go in the exercise of this power, in providing rules simply for the punishment of others than members of their own body, it is not necessary to inquire or determine. But there can be no doubt of the fact that, under the authority given by the last clause of the Constitution to which we have referred, Congress has power to provide by law for any and all contingencies that may arise; and having the power by the Constitution to punish their own members for such disorderly conduct as would disturb the deliberations of the body, and having power to pass laws to protect themselves from all disturbance or interference from other quarters, what necessity can there possibly be to go beyond the limits of the Constitution in search for other and higher powers than those expressly conferred?

Instead of being governed in our action by precedents from the British House of Commons, we submit that it is more in accordance with the theory of our government, and more consonant with the sentiment of the American people, that no citizen shall be subjected to any punishment for any offence whatever, unless that offence is known at the time of its committal to be a violation of some existing law. If Congress feels that it is necessary to provide against any interruption of its proceedings, its remedy is both simple and ample. Its deliberations, its rights, and its privileges, can be as well and as clearly designated by law as the rights and privileges of any citizen of the country.

Under this view of the question, no one can be at fault in knowing the privileges of Congress, and in conforming his conduct to their requirements. He has only to look to the Constitution and to the law of the land; and we do insist upon it that, if he finds no prohibition either in the Constitution or in the law, whether that law be passed by both Houses of Congress, or a law passed, in the nature of rules, by either branch, he ought not to be held responsible for the commission of any act which none of these provide against.

We are at a loss to understand why it is that members of Congress cannot be content to enjoy the same privileges and the same protection which is guarantied to every other citizen of the land. We recognize no privileged class. Ours is a government, based upon the idea of practical equality amongst all the citizens of the republic. The same Constitution and laws which protect the Executive—the highest officer of the republic—gives, not only to members of Congress, but to the humblest citizen of the country, equal protection. We can recognize no further distinction than those which are expressly laid down in the Constitution itself.

We now proceed to inquire, what privilege of the Senate, or of the House, or of any member, has been violated, for which this House has authority to punish, as disclosed in the facts which we have set forth in the commencement of this report?

The first allegation is, that the privilege of Mr. Sumner has been violated in this: that he has been questioned for the delivery of a speech in the Senate, in violation of that provision of the Constitution which declares that "for any speech or debate in either House they

shall not be questioned in any other place." This provision of the Constitution was evidently intended to protect members of Congress from such legal liability as they might incur for words spoken in debate in their respective Houses. It can hardly be supposed that the Constitution was providing against a mode of questioning which, in itself, even without such provision, would have been, not only unauthorized by law, but in direct violation of the criminal law of the land. It is far from being well settled, that this immunity from responsibility goes to the extent claimed for it by those from whom we differ in this matter.

If members of Congress seek this shield and protection which the Constitution gives them, is it an onerous condition imposed upon them that their speech shall be proper and legitimate in the discharge of their constitutional duty? Ought they to be permitted to avail themselves of the position given them by a confiding constituency, to indulge in language and reflections in nowise necessary for the discharge of their official duty, nor promotive of the public good? And, even granting this right to its fullest extent, can they go beyond this exercise of speech or debate, and afterwards publish and circulate, in pamphlet form, libellous matter, under the pretext that it is, in this published form, privileged speech or debate in Congress? Even the British Parliament, with all its disposition to protect its members, and under the doctrine of privilege to extend to them powers and immunities, refused to extend the doctrine beyond the strict limits of debate upon the floor of Parliament. The language of our Constitution, in this respect, is drawn from the parliamentary law; and we suppose it will not be contended that our members of Congress have greater latitude, in this respect, than the members of the British Parliament.

We find this subject so clearly and forcibly presented by Justice Story, in his work on the Constitution, that we present an extract from that work in support of the idea we have barely intimated. Story says:

"The next great and vital privilege is the freedom of speech and debate, without which all other privileges would be comparatively unimportant or ineffectual. This privilege, also, is derived from the practice of the British Parliament, and was in full exercise in our colonial legislatures, and now belongs to the legislature of every State in the Union as a matter of constitutional right. In the British Parliament, it is a claim of immemorial right, and is now further fortified by an act of Parliament; and it is always particularly demanded of the king, in person, by the speaker of the House of Commons at the opening of every new Parliament. But this privilege is strictly confined to things done in the course of parliamentary proceedings, and does not cover things done beyond the place and limits of duty. Therefore, although a speech delivered in the House of Commons is privileged, and the member cannot be questioned respecting it elsewhere, yet, if he publishes his speech, and it contains libellous matter, he is liable to an action and prosecution therefor, as in common cases of libel.

"And the same principles seem applicable to the privilege of debate and speech in Congress. No man ought to have a right to defame

others, under color of the performance of the duties of his office. And if he does so in the actual discharge of his duties in Congress, that furnishes no reason why he should be enabled, through the medium of the press, to destroy the reputation and invade the peace of other citizens. It is neither within the scope of his public duty, nor in furtherance of public rights or public policy. Every citizen has as good a right to be protected by the laws from malignant scandal, and false charges, and defamatory imputations, as a member of Congress has to utter them in his seat. If it were otherwise, a man's character might be taken away without the possibility of redress, either by the malice, or indiscretion, or over-weening self-conceit of a member of Congress. It is proper, however, to apprise the learned reader, that it has recently been denied in Congress, by very distinguished lawyers, that the privilege of speech and debate in Congress does not extend to publication of his speech. And they ground themselves upon a very important distinction arising from the actual differences between English and American legislation. In the former, the publication of the debates is not strictly lawful except by license of the House. In the latter, it is a common right, exercised and supported by the direct encouragement of the body. This reasoning deserves a very attentive examination."

The suggestion of the differences between English and American legislation on this subject, alluded to by the learned commentator, in the closing paragraph of the foregoing extract, does not strike our minds with the same force that it did his, and we pass from the further consideration of this branch of this subject, without giving this distinction that attentive examination which he has invoked for it.

It was unnecessary, however, for us to have considered this branch of the argument, as we know of no authority derived either from the law, or the rules of Congress, or even from that uncertain source of power—parliamentary law—which requires the House of Representatives to take upon itself the duty of preserving and protecting members of the other branch of Congress in the exercise of their privilege.

Each House must guard its own privileges and the privileges of its own members, except so far as both may unite in the passage of laws or joint rules for the declaration and protection of those privileges. Although we have been unable to acquiesce in the principles of all the precedents which are to be found in the history of Congress, yet we find it unnecessary, in the consideration of this branch of the subject, to assail any of those precedents, as none have gone to the extent now claimed—of one House assuming jurisdiction over the privileges of the other, for the purpose of affording protection to them.

The only provision of the Constitution under which the power can be exercised, on which the majority of our committee have relied, is the one already quoted, which declares that:

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

It is a question which has been much discussed, and one which it is important to decide correctly: To what extent is the power given to the two Houses, by this provision of the Constitution, to punish their

members? Taking the whole paragraph in its connected sense, it seems to us that it has reference to the House while in session, in the actual discharge of its constitutional duties. The power of providing rules for its proceedings, it will be seen, is coupled in the same sentence with the power to punish its members for disorderly behavior, and the power, with the concurrence of two thirds, to expel a member. If it had been contemplated that the powers conferred in this provision were to be exercised to the extent now claimed for them, they would hardly have been placed in such intimate connexion with the simple power of providing rules for the proceedings of the two Houses. We entertain no doubt that the whole of this provision looks to the session of the House; to the providing of rules for its proceedings during its session; to punishing its members for such disorderly conduct as would interrupt its session; and, where that conduct amounted to such an outrage upon the rules and proprieties of the House as would justify it, to expel the member.

To place any other construction upon this provision would be to make the members of each House, and their moral conduct and deportment, subject to the whim, caprice, and discretion of a majority of the body. Extend it beyond the presence of the session of the House and it becomes an unlimited power, operative not only during the session of Congress, but during the recess; to be exercised not only in reference to the conduct of members when in Washington city or in the District of Columbia, but when they have returned to their respective homes, and even when they have gone beyond the limits of the country. When you have passed the limits which we have laid down, there is no other boundary short of congressional discretion. And we cannot believe that it was the intention of the framers of the Constitution to place the moral conduct and deportment of members of the two Houses of Congress under the control and discretion of a majority of either House.

No one can foresee to what results such a discretion would lead. Why should such power have been vested in the two Houses of Congress? What object could have been contemplated by the framers of the Constitution? We can understand very readily the propriety of granting to each House the right to punish its members for disorderly behavior during the sessions of the House. For this there was an absolute necessity. But when we go beyond the session of the House, beyond even the session of Congress, we can see no reason why either House should take it upon itself to review the conduct of its members and sit in judgment upon that conduct. Such unlimited power would not have been conferred by the wise men who framed our Constitution in such vague and indefinite language.

Entertaining these opinions, we hold that there has been no violation, in this case, of the privileges of either House of Congress, or any member thereof, over which this House has any jurisdiction. Whatever offence may have been committed is properly cognizable before the courts of the country, and we propose to dismiss the subject to that jurisdiction provided by the Constitution and laws of the country for its investigation. We hold it would be improper for the House to express any opinion upon the facts, and we have purposely

avoided doing so. The case will undergo a judicial investigation, and that investigation should not be affected by any opinion which we may entertain, either individually or collectively. Indeed, it would seem that the Constitution, in exempting this class of cases from the privileges which it grants to members of Congress, contemplated the impropriety of any action on our part in reference to them. The House ought not to desire to influence, by any expression of theirs, the judicial tribunal which is to pass upon the facts, and, having no jurisdiction over the matter, should, in our judgment, remain silent.

It will be seen, from the view which we have taken of the Constitution on this subject, that we do not differ from the majority of the committee upon the fact that the two Houses should have the power to protect themselves in their deliberations, and in the discharge of all their constitutional duties. We differ only as to the source from which that power is derived, and the mode in which it is to be exercised. Those who claim for Congress these peculiar privileges look to parliamentary law, British precedents, and the necessity of the case, for their authority. We, on the contrary, look to the Constitution of the country for the authority, and to the laws passed in pursuance thereof for the mode and manner of its enforcement; and it is for the House to say whether it will rest its claim to privileges upon the one or the other of these sources of power. Holding, as we do, that neither House has any privileges except those which are written and declared either in the Constitution or some law or rule passed in pursuance thereof, and that the facts developed by the evidence show no violation of any such written and recognized privileges, we recommend the adoption of the following resolution:

Resolved, That this House has no jurisdiction over the assault alleged to have been committed by the Hon. Preston S. Brooks, a member of this House from the State of South Carolina, upon the Hon. Charles Sumner, a senator from the State of Massachusetts; and therefore deem it improper to express any opinion on the subject.

HOWELL COBB,
ALFRED B. GREENWOOD.

JOURNAL

OF THE COMMITTEE OF INVESTIGATION INTO THE CONDUCT OF HON. PRESTON S. BROOKS, APPOINTED UNDER THE RESOLUTION OF THE HOUSE OF REPRESENTATIVES, DATED MAY 23, 1856, AND TESTIMONY TAKEN BEFORE SAID COMMITTEE.

SATURDAY, *May* 24, 1856.

The committee met pursuant to notice given by the chairman, Mr. CAMPBELL, at eleven o'clock, a. m., in the room of the Committee of Ways and Means.

Present: Messrs. LEWIS D. CAMPBELL, HOWELL COBB, ALFRED B. GREENWOOD, ALEXANDER C. M. PENNINGTON, and FRANCIS E. SPINNER.

The following resolution was transmitted to the committee by the Clerk of the House of Representatives:

MAY 23, 1856.

On motion of Mr. LEWIS D. CAMPBELL,

Whereas, it is represented that, on the 22d day of May, 1856, Hon. Preston S. Brooks, a member of this House from the State of South Carolina, and other members, either as principals or accessories, perpetrated a violent assault upon the person of the Hon. Charles Sumner, a senator of the United States from the State of Massachusetts, whilst remaining in his seat in the Senate chamber in the performance of duties pertaining to his official station: Therefore,

Resolved, That a select committee of five be appointed by the Speaker to investigate the subject and to report the facts, with such resolutions thereto as, in their judgment, may be proper and necessary for the vindication of the character of this House, and that said committee have power to send for persons and papers and to employ a clerk; also, to sit during the sessions of the House,

Ordered, That LEWIS D. CAMPBELL, of Ohio, ALEXANDER C. M. PENNINGTON, of New Jersey, HOWELL COBB, of Georgia, ALFRED B. GREENWOOD, of Arkansas, and FRANCIS E. SPINNER, of New York, be appointed said committee.

Attest:

WM. CULLOM, *Clerk*.

On motion of Mr. COBB, the chairman of the committee was authorized to appoint a clerk.

On motion of Mr. COBB, the chairman was directed to inform Hon. Preston S. Brooks that the committee is organized, and that the privilege is granted to him of attending its sessions, to propound questions to witnesses, and also to request of him the names of such witnesses as he may desire to have examined before the committee.

On motion, it was

Ordered, That, for the purpose of facilitating the investigation, the chairman request senators, representatives, and officers of either House, whose testimony may be desired, to prepare, in advance of their appearance before the committee, a written statement of their knowledge of the facts, to be subject to such additional examination as the committee may see fit to make.

The committee then adjourned until Monday next at one o'clock, p. m.

MONDAY, May 26, 1856,

The committee met, pursuant to adjournment, at one o'clock, p. m. Present—all the members.

The chairman appointed F. H. Smith as clerk to the committee.

The chairman informed the committee that he had addressed the following letter to Hon. Preston S. Brooks:

HOUSE OF REPRESENTATIVES.

Washington, May 24, 1856.

SIR: I have the honor to inform you that the select committee appointed by the House to investigate the matter of the alleged assault by you upon Hon. Charles Sumner, on the 22d instant, have passed an order extending to you the privilege of appearing before it during the examination of witnesses, to suggest such questions as you may desire to have propounded to them.

The committee have further instructed me to request of you the names of such witnesses as you may desire to have subpoenaed in your behalf.

The first meeting of the committee will take place at the room of the Committee of Ways and Means, on Monday next, at one o'clock, p. m.

I have the honor to be, sir, very truly, yours,

LEWIS D. CAMPBELL, *Chairman.*

Hon. PRESTON S. BROOKS, *Washington, D. C.*

The chairman stated to the committee that, having been informed that Mr. Sumner's condition was somewhat critical, he addressed him, through his attending physician, Dr. Boyle, the following letter:

HOUSE OF REPRESENTATIVES,

Washington, May 24, 1856.

SIR: I have the honor to inform you that the committee appointed by the House of Representatives to investigate the matter of the alleged assault upon you in the Senate chamber by Hon. Mr. Brooks, of South Carolina, and others, has this day organized, and desires to ascertain all the facts connected with the unfortunate occurrence as speedily as possible.

I am authorized by the committee to inform you that the investigation will be commenced on Monday next, at one o'clock, p. m., at the room of the Committee of Ways and Means, and that you will be expected to meet it whenever your attending physicians may deem it prudent that you should so do, to testify in the premises.

I am further authorized to suggest, in advance, that, with a view to expedite the investigation, and to adapt the proceedings of the committee to the mutual convenience of its members, and the witnesses brought before it, you will be called upon to answer, in substance, the following interrogatory.

"What do you know of the facts connected with the assault alleged to have been made upon you in the Senate chamber by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?"

This note is written in order that you may prepare your general statement in your own rooms, to be verified by your oath, and subject to cross-examination in presence of the committee.

I have the honor to be, sir, very truly, yours, &c.,

LEWIS D. CAMPBELL.

WASHINGTON, *May 25, 1856.*

DEAR SIR: Read the inclosed, and present it to Mr. Sumner whenever you, *as a physician*, deem it proper. "The sooner the better," if you consider him in a fit condition to receive it.

I have not seen him since I saw you dress his wounds on Thursday, and have heard rumors that there is danger of inflammation of the brain, &c. For this cause I deem it discreet to send this communication through you.

Very truly, yours, &c.,

LEWIS D. CAMPBELL.

Dr. BOYLE, *Four and-a-half street, Washington.*

The chairman also stated, that he had addressed a letter, severally, to Messrs. Crittenden, Pearce, Toombs, Foster, and Wilson, senators; to Messrs. Morgan, Murray, and Edmundson, members of the House, to Governor Gorman, of Minnesota; to Mr. Sutton, reporter in the Senate; and Messrs. McNair, Holland, and Hickey, officers of the Senate. The following is a copy of the letter:

HOUSE OF REPRESENTATIVES,
Washington, May 26, 1856.

SIR: You are requested to testify before the committee appointed by this House to investigate the matter of an alleged assault by Hon. Mr. Brooks upon Senator Sumner.

The committee will meet on Monday, 26th, at one o'clock, p. m., at the room of the Ways and Means Committee, and would be glad to have your testimony at that time, or as soon thereafter as it may be convenient for you to attend.

For the mutual convenience of yourself and the committee, and with a view to expedite the investigation, the committee have directed me to suggest to you that the principal question which will be propounded to you will be such as to call for a statement of all the facts within your knowledge relative to the assault. If, therefore, you can, at your leisure, prepare it prior to that time, it may be the means of avoiding a delay which might conflict with other engagements.

I have the honor to be, very truly, yours, &c.,

LEWIS D. CAMPBELL.

The chairman laid before the committee the following reply of Mr. Brooks to his letter:

HOUSE OF REPRESENTATIVES, *May 26.*

SIR: In reply to your polite note of Saturday evening, I have to say that I know of no witness to the affair but Hon. Mr. Winslow, of North Carolina.

Yours, truly,

P. S. BROOKS.

Hon. Mr. CAMPBELL.

Mr. PENNINGTON moved that the committee proceed to the lodgings of Mr. Charles Sumner, for the purpose of taking his testimony, stating that he had seen Mr. Sumner this morning at his room, and, finding him too unwell to attend the committee, had intimated that the committee might be willing to wait on him.

Mr. COBB moved to amend the motion, by instructing the chairman of the committee to wait on Mr. Sumner and learn whether he could not attend the committee at their room, and if not, to ascertain at what time he would be ready to proceed with the examination.

Mr. PENNINGTON stated that Mr. Sumner had informed him that he would be ready to see the committee at half past one o'clock, p. m., to-day.

The amendment moved by Mr. COBB was disagreed to.

Mr. PENNINGTON's motion was agreed to.

And the committee thereupon proceeded to the lodgings of Mr. Sumner; Mr. Campbell having first invited Mr. Brooks to proceed with them, and Mr. Brooks having declined.

Hon. Charles Sumner sworn.

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon you in the Senate chamber by Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I attended the Senate as usual on Thursday, the 22d of May. After some formal business, a message was received from the House of Representatives, announcing the death of a member of that body from Missouri. This was followed by a brief tribute to the deceased from Mr. Geyer, of Missouri, when, according to usage, and out of respect to the deceased, the Senate adjourned.

Instead of leaving the chamber with the rest on the adjournment, I continued in my seat, occupied with my pen. While thus intent, in order to be in season for the mail, which was soon to close, I was approached by several persons who desired to speak with me; but I answered them promptly and briefly, excusing myself for the reason that I was much engaged. When the last of these left me, I drew my arm-chair close to my desk and with my legs under the desk continued writing. My attention at this time was so entirely withdrawn from all other objects, that, though there must have been many persons on the floor of the Senate, I saw nobody.

While thus intent, with my head bent over my writing, I was addressed by a person who had approached the front of my desk, so entirely unobserved that I was not aware of his presence until I heard my name pronounced. As I looked up, with pen in hand, I saw a tall man, whose countenance was not familiar, standing directly over me, and at the same moment, caught these words: "I have read your speech twice over carefully. It is a libel on South Carolina, and Mr. Butler, who is a relative of mine—" While these words were still passing from his lips, he commenced a succession of blows with a heavy cane on my bare head, by the first of which I was stunned so as to lose sight. I no longer saw my assailant nor any person or object in the room. What I did afterwards was done almost unconsciously, acting under the instinct of self defence. With head already

bent down, I rose from my seat, wrenching up my desk, which was screwed to the floor, and then pressed forward, while my assailant continued his blows. I have no other consciousness until I found myself ten feet forward, in front of my desk, lying on the floor of the Senate, with my bleeding head supported on the knee of a gentleman, whom I soon recognized, by voice and countenance, as Mr. Morgan, of New York. Other persons there were about me offering me friendly assistance; but I did not recognize any of them. Others there were at a distance, looking on and offering no assistance, of whom I recognized only Mr. Douglas, of Illinois, Mr. Toombs, of Georgia, and I thought also my assailant, standing between them.

I was helped from the floor and conducted into the lobby of the Senate, where I was placed upon a sofa. Of those who helped me to this place I have no recollection. As I entered the lobby, I recognized Mr. Slidell, of Louisiana, who retreated; but I recognized no one else until some time later, as I supposed, when I felt a friendly grasp of the hand, which seemed to come from Mr. Campbell, of Ohio. I have a vague impression that Mr. Bright, President of the Senate, spoke to me while I was lying on the floor of the Senate or in the lobby.

I make this statement in answer to the interrogatory of the committee, and offer it as presenting completely all my recollections of the assault and of the attending circumstances, whether immediately before or immediately after. I desire to add that, besides the words which I have given as uttered by my assailant, I have an indistinct recollection of the words "old man;" but these are so enveloped in the mist which ensued from the first blow, that I am not sure whether they were uttered or not.

Question, (by Mr. GREENWOOD.) How long do you suppose it was after the adjournment of the Senate before this occurrence took place?

Answer. I am very much at a loss to say whether it was half an hour or fifteen minutes; I should say ranging from fifteen minutes to half an hour, more or less; perhaps not more than fifteen minutes. I have already testified that I was so much absorbed with what I was doing at my desk that I took very little note of anything, not even of time.

Question, (by Mr. COBB.) Was the first blow you received from Mr. Brooks before he had finished the sentence?

Answer. I have no recollection beyond what I have stated.

Question. My question was, whether a blow was struck before Mr. Brooks finished the remark to you which you have just quoted?

Answer. The blow came down with the close of the sentence.

Question. Then the sentence was closed before the blow was struck?

Answer. It seemed to me that the blow came in the middle of an unfinished sentence. In the statement I have made I used the language, "while these words were still passing from his lips, he commenced a succession of blows." I heard distinctly the words I have given; I heard the words "a relative of mine," and then it seemed to me there was a break, and I have left it as an unfinished sentence, the sequel of which I did not hear on account of the blows.

Question, (by Mr. CAMPBELL.) Did you at any time between the

delivery of your speech referred to, and the time when you were attacked, receive any intimation in writing, or otherwise, that Mr. Brooks intended to attack you?

Answer. Never, directly or indirectly; nor had I the most remote suspicion of any attack, nor was I in any way prepared for an attack. I had no arms or means of defence of any kind. I was, in fact, entirely defenceless at the time, except so far as my natural strength went. In other words, I had no arms either about my person or in my desk. Nor did I ever wear arms in my life. I have always lived in a civilized community where wearing arms has not been considered necessary. When I had finished my speech on Tuesday, I think it was my colleague came to me and said; "I am going home with you to-day—several of us are going home with you." Said I: "None of that, Wilson." And, instead of waiting for him, or allowing him to accompany me home, I shot off just as I should any other day. While on my way from the Capitol I overtook Mr. Seward, with whom I had engaged to dine: we walked together as far as the omnibuses. He then proposed that we should take an omnibus, which I declined, stating that I must go to the printing office to look over proofs. I therefore walked alone, overtaking one or two persons on the way. I have referred to this remark of my colleague in answer to your question, whether I had in any way been put on my guard.

Question, (by Mr. COBB,) What do you attribute the remark of your colleague to? In other words, was it founded upon an apprehension growing out of what you had said in your speech?

Answer. I understand that it was. He has told me since that a member of the House had put him on his guard, but he did not mention it to me at the time. I suspected no danger, and, therefore, I treated what he said to me as trifling. Mr. COBB here produced a printed copy of a speech purporting to have been made by Mr. Sumner, in the Senate of the United States, on the 19th and 20th of May, 1856, printed by Buell and Blanchard, printers, Washington, 1856, and proposed to ask Mr. Sumner if that was a correct copy of the speech delivered by him on those two days.

Mr. PENNINGTON objected to the question at the present stage of the investigation as immaterial.

Mr. SUMNER expressed his entire willingness to answer the question.

Mr. COBB asked that the question should be decided by the committee.

The question being put, "Shall the question be received?" it was decided in the negative: yeas 2, nays 3—as follows:

Yeas—Messrs. Cobb, and Greenwood.

Nays—Messrs. Campbell, Pennington, and Spinner.

Mr. Spinner stated that he should probably move a reconsideration of the vote just taken, refusing to make the speech a part of the testimony.

Question, (by Mr. PENNINGTON.) Have you ever defied or invited violence?

Mr. COBB asked for a division of the committee on receiving that question.

The question was received, all the members having voted in the affirmative.

Answer. Never, at any time.

Question. State what was the condition of your clothing after this violence, when you were taken from the chamber.

Answer. I was in such a condition at the time that I was unaware of the blood on my clothes. I know little about it until after I reached my room, when I took my clothes off. The shirt around the neck and collar was soaked with blood. The waistcoat had many marks of blood upon it; also the trowsers. The broadcloth coat was covered with blood on the shoulders so thickly that the blood had soaked through the cloth even through the padding, and appeared on the inside; there was also a great deal of blood on the back of the coat and its sides.

Question. Were you aware of the intention of Mr. Brooks to strike or inflict a blow before the blow was felt?

Answer. I had not the remotest suspicion of it until I felt the blow on my head.

Question. (by Mr. CAMPBELL.) Do you know how often you were struck?

Answer. I have not the most remote idea.

Question. How many wounds have you upon your head.

Answer. I have two principal wounds upon my head, and several bruises on my hands and arms. The doctor will describe them more particularly than I am able to.

Question. (by Mr. COBB.) You stated that when Mr. Brooks approached you he remarked that he had read your speech, and it was a libel upon his State and upon his relative. I will ask you, if you had, prior to that assault, in any speech, made any personal allusions to Mr. Brooks' relative—Mr. Butler—or to the State of South Carolina, to which Mr. Brooks applied this remark?

Answer. At the time my assailant addressed me I did not know who he was, least of all did I suppose him to be a relative of Mr. Butler. In a speech, recently made in the Senate, I have alluded to the State of South Carolina, and to Mr. Butler, but I have never said anything which was not in just response to his speeches according to parliamentary usage, nor anything which can be called a libel upon South Carolina or Mr. Butler.

Mr. PENNINGTON moved to strike out so much of the answer just given as characterized, or sought to characterize, the nature of the speech made by Mr. Sumner, to wit, the words: "But I have never said anything which was not in just response to his speeches according to parliamentary usage, nor anything which can be called a libel upon South Carolina or Mr. Butler," as immaterial.

The question was then taken upon the motion; and it was decided in the negative—yeas 1, nays 4; as follows:

Yeas—Mr. Pennington.

Nays—Messrs. Campbell, Cobb, Greenwood, and Spinner.

Question. Are those remarks in reference to South Carolina and Mr. Butler, to which you alluded in your last answer, correctly reported in the copy of the speech which I now hand you?

Objected to by Mr. PENNINGTON as immaterial.

The question, "Will the committee entertain the question?" was taken; and it was decided in the affirmative—yeas 3, nays 2; as follows:

Yeas—Messrs. Campbell, Cobb, and Greenwood.

Nays—Messrs. Pennington and Spinner.

Answer. They are.

CHARLES SUMNER.

[The speech referred to by Mr. Cobb is appended to the testimony. See appendix.]

The committee then returned to the committee room at the Capitol.

Hon Willis A. Gorman sworn.

Question, (by Mr. CAMPBELL.) State what you know in reference to the assault alleged to have been committed upon Mr. Sumner by Mr. Brooks, of South Carolina, upon the 22d of this month.

Answer. After the adjournment of the Senate, I was in conversation with Senator Toombs, of Georgia, when I saw Mr. Sumner sitting at his seat writing. After a few moments' conversation, I saw a gentleman approach, whom I have since learned to be Mr. Brooks, of South Carolina, and seemingly ask some question or speak some words to Mr. Sumner, to which Mr. Sumner seemed to reply. The words spoken by either were not understood by myself, I heard nothing but the sound of the voice. I was about twelve or thirteen feet from them. Immediately after the reply of Mr. Sumner, Mr. Brooks struck with a cane. Mr. Sumner then rose and attempted to defend himself with a good deal of vigor. Mr. Brooks continued to strike very rapidly, and with a great deal of severity. Mr. Sumner's arms were elevated, and the end of the cane striking on the head nearly every lick. Mr. Sumner seemed to be attempting to get hold of him the first two or three licks, and Mr. Brooks came back until he pressed against a seat, and the seat fell over. In a very short time, the assistant doorkeeper, I think it was—Mr. Holland—seemed to get hold of them. I rushed forward and tried to get hold of them, and Mr. Toombs also rushed forward. At that moment the parties were seized. Mr. Sumner seemed to be in a fainting condition. He seemed to be sinking down upon the rise of the floor by the side of the aisle, in a fainting condition. His head was cut pretty badly, I thought, from the looks of it. Mr. Brooks stood about six feet from him, but did not attempt to strike any more. Mr. Sumner was taken by the officers, Mr. Crittenden, and others, into a back room. There my knowledge ends.

Question, (by Mr. PENNINGTON.) How soon after the adjournment of the Senate did this occur?

Answer. I think about half or three quarters of an hour. That is, however, from hearsay.

Question. How was Mr. Sumner engaged when you first saw him, when Mr. Brooks approached?

Answer. In writing at his desk, leaning forward in a writing posture.

Question. Were his legs under the table?

Answer. I would not undertake to say. He was in the ordinary posture, sitting at the table.

Question. Did any considerable conversation pass between them before the blow was struck?

Answer. Very brief. A question and seeming answer, and the blow. The substance of no words was understood by me. All was said in a low tone of voice.

Question. How many blows were struck before Mr. Sumner rose from his seat?

Answer. I think but one. The very first blow Mr. Sumner rose and attempted to defend himself with a great deal of vigor; putting his hands forward to get at Mr. Brooks, as I thought.

Question. With clenched fists, or with open hands?

Answer. I could not state that fact with any particularity.

Question. How rapidly were the blows given?

Answer. With remarkable rapidity from the beginning.

Question. How many blows in all?

Answer. From ten to twenty—perhaps more; but I should hardly think more than from ten to twenty. The stick broke, I think, about the fourth blow.

Question. Into how many pieces?

Answer. It broke off about from four to eight inches from the foot of the cane.

Question. What was the size of the stick?

Answer. I did not see it except as it was in the hands of Mr. Brooks.

Question. Cannot you state about what was the size of the stick?

Answer. I should suppose it was about one half or three quarters of inch in diameter, from my point of observation.

Question. What was the material?

Answer. I did not know. I was not personally acquainted with Mr. Brooks, and consequently I did not attempt to make any personal examination of the stick. I did not feel of the stick. My attention about that time was directed in another quarter somewhat.

Question. Are you certain whether the desk was pushed over in the effort of Mr. Sumner to reach Mr. Brooks, or whether it was in rising from his seat?

Answer. It was not the desk upon which he was writing. It was the desk the third down which fell over the one by the side of which Mr. Sumner fell.

Question. Do you know what became of the desk at which Mr. Sumner was writing at the commencement of the assault?

Answer. If anything unusual it escaped my observation.

Question. Who were present in the Senate chamber when this assault commenced?

Answer. I saw Mr. Crittenden. He was the only gentleman that was known to me, standing, I think, at the door of the Senate, or near by. I saw one or two doorkeepers, or assistant sergeants-at-arms, and one or two strangers, who stood behind the President's chair; they were unknown to me; one of them was a man of moderate size with whiskers.

Question. Do you know who he was?

Answer. From information, I understand it was Mr. Keitt, of South Carolina.

Question. When did you first see him in the Senate Chamber?

Answer. About the time I went in, or after I had been there a few moments, perhaps.

Question. Where was he when you first saw him?

Answer. Talking to a stranger behind the President's chair.

Question. Where did you next see him?

Answer. Near the scene of the fight.

Question. Did you see him participate in any way in the assault, or take any part in it? If so, state what part you saw him take in the matter.

Answer. The same gentleman, I think, I have been since introduced to as Mr. Keitt, of South Carolina, came forward about the time Senator Toombs and myself went forward to the scene, with a small cane in his hand. He held it lifted above his head, as if he intended to strike.

Question. To strike whom?

Answer. I do not know, nor could I tell; evidently no one could tell, unless he had known the circumstances. Mr. Toombs said, "Don't strike!" and addressed himself to Mr. Keitt. Mr. Keitt then put down his cane, and did not advance any further.

Question. At what distance was he from Mr. Sumner?

Answer. I should think about ten feet; not within striking distance. He was approaching the contesting parties when spoken to by Mr. Toombs; but immediately put down his cane and halted.

Question. What did he say when approaching?

Answer. I did not hear one word.

Question. What did he say when he was told to stop?

Answer. I heard him say not one word until after the transaction was over. I heard him then in conversation, but I did not understand the language, for my attention was occupied in trying to assist Mr. Sumner.

Question. Did he exhibit any manifestations of anger?

Answer. None that I could testify to, unless I could testify from my impressions, which I would rather not do, being an entire stranger to him.

Question. Did he advance towards Mr. Sumner rapidly?

Answer. He advanced towards the object before him, whether it was Mr. Brooks, Mr. Sumner, or whatever it was, rapidly and with a pretty determined attitude, if I can judge of a man's character by his eyes and countenance.

I ought, perhaps, to make this explanation. The cane which he held up over his head he might possibly have held in that position in order to get over the desks, for he seemed to get over them with some rapidity. He might have held it up, possibly, to facilitate his passage nor did I think anything of it until Mr. Toombs directed my attention to his somewhat belligerent attitude by telling him not to strike; then I thought I discovered a belligerent attitude.

Question. Give the names of the persons you recollect seeing in the Hall at the time?

Answer. I know of one or two other persons in addition to those I have mentioned, though perhaps I should not be able to give their names unless some one will prompt me. The reporter of the Senate

was there. [Mr. CAMPBELL. Mr. Sutton?] Yes; that is the name—Mr. Sutton.

Question. Were any other senators there besides Mr. Crittenden and Mr. Toombs?

Answer. One other senator was there, who has since been pointed out to me as Mr. Iverson.

Question. Was Senator Foster there?

Answer. I do not know him.

WILLIS A. GORMAN

On motion of Mr. COBB, the committee adjourned until to-morrow at ten o'clock, a. m.

TUESDAY, May 27, 1856.

The committee met pursuant to adjournment at ten o'clock.

Present: All the members of the committee.

Hon. James A. Pearce sworn.

Question, (by Mr. CAMPBELL.) Do you know anything of the assault alleged to have been committed upon Mr. Sumner by Mr. Brooks? If you do, state the facts within your knowledge.

Answer. On Thursday last, after the adjournment of the Senate, I was sitting in the Senate chamber in conversation with Mr. Crittenden. The position of my chair being reversed I did not see Mr. Sumner. I did not know that either he or Mr. Brooks was in the chamber, nor did I expect any encounter. While thus conversing I heard the sound of blows. Upon rising from my seat and looking in the direction from which the sounds proceeded, I saw Mr. Brooks striking Mr. Sumner with a cane. Mr. Sumner was standing at his desk, and apparently clutching at the cane or at Mr. Brooks. Almost immediately he passed from his place between two of the desks, one of which was upset in the effort, and on the edge of the main aisle he sank down, whether from exhaustion or because of the ledge at the edge of the aisle I do not know. No blow was struck after he fell, by which time some officers of the Senate and other persons were gathered around him. Mr. Crittenden, who saw the affair sooner than I, and rose before me, got to the spot just as the assault ceased. It was over in a very short time. I heard Mr. Brooks say, in reply to some remark or question, "I did not intend to kill him, but I did intend to whip him." Mr. Sumner was bleeding freely, but I did not suppose that he was insensible. The stick used was an ordinary gutta percha cane and hollow, one piece of it which I examined was five eighths of an inch in diameter, another piece of it was near three quarters of an inch in diameter. I saw no one but Mr. Brooks engaged in the affray.

Question, (by Mr. PENNINGTON.) What was Mr. Sumner's position when you saw the first blow struck?

Answer. He was standing up, as I have stated, near his own desk, clutching at the cane or at Mr. Brooks. You perceive that I did not witness the beginning of it. All that has been said about his being seated at his desk when Mr. Brooks first struck him is perhaps true. I did not see it.

Question. Did you notice, when you first saw Mr. Sumner, whether his own desk was in its proper position, or whether it was overturned?

Answer. I think it was in its proper position.

Question. Which desk was overturned?

Answer. I think it was Mr. Sumner's own desk.

Question. Was that the only desk overturned?

Answer. I think it was. I saw one or two desks loosened in part from their fastenings, but I do not think they were overturned.

Question. What other persons than yourself were in the Senate chamber when the affair occurred, so far as you recollect?

Answer. That is impossible for me to answer, except to say that I was conscious that other persons were present; and I did not know who they were until I had risen and looked about. Immediately after the assault took place, I recollect I saw Mr. Toombs, and Mr. Stuart, of Michigan. I also saw Mr. Morgan, of the House of Representatives, on my right, passing rapidly to the assistance of Mr. Sumner. I saw Mr. Holland, the assistant doorkeeper of the Senate, who also went to Mr. Sumner's assistance. Immediately afterward I saw Mr. Nicholson, the clerk of the Senate. I also saw Mr. Douglas, though not until some time after the assault was over. Just at the close of it I saw Mr. Keitt advance; but not expecting anything of this sort it is impossible for me to state the facts with precision. I was in earnest conversation with Mr. Crittenden when I heard the sound of blows, and then my attention was directed to the parties. It all occurred in a very short time—not more than ten seconds, I should think, from the beginning of the affair to the end.

Question. (by Mr. COBB.) How long after the adjournment of the Senate did this occurrence take place?

Answer. I do not know. I suppose at least twenty minutes.

Question. Is Mr. Sumner's seat, at which he was sitting, elevated?

Answer. It is. It is the seat that I occupied for many years, and a very unfortunate seat by the way. I had my head cut open while I was sitting in it, by the fall of an umbrella from the gallery.

Question. (by Mr. PENNINGTON.) In what position was Mr. Brooks standing in reference to Mr. Sumner when you saw the first blow struck?

Answer. I think he was directly in front of Mr. Sumner's desk.

Question. What is the width or depth of the desk?

Answer. I should think two feet—or perhaps a little more.

Question. Would it be possible for a person standing on one side of the desk to reach a person on the other side, for the purpose of inflicting an injury, except by some other weapon than the arm or fist?

Answer. That would depend very much upon the activity of the assailant. The person assailed could very easily get out of the way. The proper course would have been to have knocked the desk over. But I do not think the position would be near enough to fight very successfully, if the other was disposed to get out of the way.

Question. Do you know anything of the relative specific gravity of a gutta percha cane and of a hickory cane?

Answer. I do not.

Question. How thick was the cane used by Mr. Brooks?

Answer. It would be difficult to speak precisely. I do not think the hollow of the cane was exactly in the center. I should think one edge might have been one eighth of an inch in thickness, and the other edge perhaps two eighths. There are fragments of the cane in possession of several persons. I have one of them in my pocket.

[The witness here exhibited a small fragment of a cane.]

Question. How many blows did you see struck?

Answer. It is impossible to say. I must have seen perhaps half a dozen, and heard some four or five more.

Question. With what vigor were they struck?

Answer. They were vigorously applied.

Question. How aimed?

Answer. Chiefly about the head and shoulders. They could not well have been otherwise.

Question. You say you saw no other person participating in the affair?

Answer. No sir.

Question. Did you see Mr. Keitt in the affair?

Answer. I saw Mr. Keitt just at the close of it, apparently coming up in the midst of the crowd which had then surrounded the parties. Mr. Edmundson I did not see until the whole affair was over.

Question. Did you see either of these parties about the Senate chamber prior to the assault?"

Answer. They might have been there, but I did not see either of them.

JAMES A. PEARCE.

Hon. Robert Toombs, sworn:

Question. (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I saw a part of the rencounter between Mr. Brooks and Mr. Sumner in the Senate chamber. I was standing in the open space on the right of the Vice President's seat, in conversation with Governor Gorman, of Minnesota, when my attention was attracted by the collision; upon looking in the direction of the noise, I saw Mr. Brooks and Mr. Sumner. Mr. Brooks was striking Mr. Sumner with a cane, and Mr. Sumner was either in the act of seizing Mr. Brooks, or defending himself from his blows. I could not at the instant tell what was his object from his motions; almost at the same instant I saw Mr. Sumner's desk falling over, which separated the parties a little further from each other, and seemed to give Mr. Brooks better play with his stick, and the next lick after that occurrence was a more effective one, broke the stick, and lessened the resistance of Mr. Sumner. Mr. Brooks continued his blows rapidly with the part of the stick he held in his hand, until Mr. Sumner sank to the floor in rather a sitting posture. He then ceased, and some of the by-

standers having by this time reached the parties, took Mr. Brooks by the arm and led him a few paces away from Mr. Sumner.

Question. (by Mr. PENNINGTON.) You called this a rencounter. I want to know whether Mr. Sumner did anything beyond self-defence?

Answer. I have stated precisely what I saw. I saw Mr. Sumner attempt to seize the stick, or ward off the blow—I could not tell which. My impression was that it was to ward off the blow.

Question. Was there anything more in the transaction to give it the character of a rencounter or collision?

Answer. Nothing more.

Question. Who were present when this affair commenced?

Answer. I do not know that I can recollect. I had been in conversation at his seat a few minutes before with my colleague in the Senate from the State of Georgia; then with Mr. Brown, a gentleman from Georgia, whom I had not seen before since his arrival in this city. I had some conversation with him. Then Governor Gorman came up, with whom I had some conversation. I saw no other person who attracted my attention at the time. I was standing nearly facing the parties, they being a little to my right, and I presume I must have seen them an instant sooner than Mr. Pearce did, from his statement of his position. I afterwards recollected seeing him walk up the aisle; but there was nothing to attract my attention. Mr. Iverson and Governor Gorman were there. Mr. Crittenden and Mr. Pearce also were there. They came up when Mr. Sumner was in the main aisle. In the struggle Mr. Sumner had come two or three seats nearer the President's chair than his own seat. He came around and sank down on the rim or edge of the aisle. He was resting there when I got there. Mr. Brooks kept up his blows with great rapidity until Mr. Sumner sank on the floor. He was not striking at the instant Mr. Crittenden came around near to the parties; and I came about the same time. I heard Mr. Brooks make the remark, that he did not intend to kill him, (Mr. Sumner,) but that no man should talk in that way of his State or his absent relative, or something like that. I heard no conversation between the parties. It was rather a silent affair; a very singular one. I did not hear either of them speak a word before. It struck me that not one word was said.

Question. Did you hear a word prior to the blow?

Answer. Not at all.

Question. In what posture was Mr. Sumner when you first saw him?

Answer. He was standing on his feet, or in the act of rising. My impression is, that his desk had fallen, or was in the act of falling, when I first looked around. I think he was standing up. My attention was first attracted by hearing blows struck.

Question. How many blows did you see?

Answer. I suppose five, or six, or eight. They were struck very rapidly. After his desk fell, Mr. Brooks had rather a better chance at him. He was at a better distance from Mr. Sumner; but Mr. Sumner's resistance was more ineffectual; and he defended himself with rather less vigor than he had done before. It seemed to me that, with the first lick after the desk fell, Mr. Sumner appeared to turn towards the main aisle. I think that lick was on his head. His re-

sistance seemed to be ineffectual. There was nothing more than throwing up his hands.

Question. You speak of resistance. Was there any resistance more than to ward off the blows?

Answer. I do not know that there was. When I first saw them he was standing on his feet, and I thought seizing Mr. Brooks' arm, or perhaps to ward off the blow—I could not tell which. Mr. Sumner was facing me; Mr. Brooks had his back to me when I first saw them. I recognized them both the instant I looked up.

Question. Did you see Mr. Keitt?

Answer. I saw Mr. Keitt when I got up near the combatants with Governor Gorman; I went up immediately. By the time Mr. Keitt had got to the aisle the blows had ceased. Mr. Keitt was there with, I think, a stick in his hands. He made some observation; I do not recollect what it was. He was standing in the aisle, and some words passed from him; I think they were addressed to Mr. Crittenden. Mr. Crittenden had made some remark condemnatory of the fight, which arrested my attention. I think the expression by Mr. Brooks was in reply to him. I heard some expression in the nature of a threat, but do not recollect what it was.

Question. Threats to whom?

Answer. I think they were directed to Mr. Crittenden, though I cannot distinctly tell whether to him or Sumner. The reason why I thought they were directed to Mr. Crittenden was, because he had made some remark that it was a shame, or something of that sort.

Question. Do you recollect telling Mr. Keitt not to strike?

Answer. I think I do. I thought he was going to strike. He seemed to be excited; he had a stick in his hand.

Question. Was the stick raised?

Answer. I do not know whether it was raised or not. I had the impression that he was going to use it, or rather I was afraid that he might use it.

Question. What was the position of Mr. Brooks when he made the observation?

Answer. He was standing in the aisle; Mr. Crittenden was there. This excited conversation was going on; Mr. Crittenden made some such remark as I have stated. Mr. Brooks was standing in the crowd. Then Mr. Keitt made some excited remark; what it was I do not recollect. I am not sure. I would not say that he intended to strike him.

Question. Did you make the remark from an apprehension that he was going to strike Mr. Crittenden, or Mr. Sumner?

Answer. I thought Mr. Crittenden. Mr. Sumner was ten or twelve feet away.

Question. Did you not see Mr. Keitt approaching the scene of the assault until this remark was made by Mr. Crittenden?

Answer. He was standing there when the remark was made, and that was when I first saw him. I saw no demonstration until that remark was made; I saw no attempt of his to strike Mr. Sumner, nor heard any threat of his to Mr. Sumner.

Question. Had you seen Mr. Keitt in the Senate chamber before?

Answer. I had not that morning. I did not see him until that time; I saw nothing of him before the occurrence.

Question. With what vigor were the blows laid on?

Answer. Mr. Brooks seemed to strike as hard as he could. I think they were very decided. They were very rapid, and as hard as he could hit. They were hard licks, and very effective. They made a good deal more noise after the stick was broken than before. They sounded as if the end of the stick was split.

Question. Is Mr. Brooks a man of much size, or muscular power?

Answer. Yes, sir; he seemed to be a man of a good deal of activity and strength. I should judge he has both.

Question. (by Mr. COBB.) What was Mr. Sumner's size and appearance?

Answer. My own opinion is that Mr. Sumner was physically, at least, his equal. That was my judgment on looking at the men. So far as I can judge, Mr. Sumner is a man of fine *physique*; a man of strong muscular frame and physical power. I have but a slight acquaintance with either. I should think that Mr. Sumner was about six feet in height, and Mr. Brooks about six feet and an inch.

Question. (by Mr. GREENWOOD.) How long do you suppose it was after the adjournment of the Senate that this occurrence took place?

Answer. My impression is that it was about a half hour; from a half to three quarters of an hour. I paid no attention at the time; but from several circumstances my impression is that perhaps it was a little longer than a half hour.

Question. Were any others present, that you recollect?

Answer. Judge Iverson was sitting in his seat. Mr. Foster was there, and Mr. Stuart, I think.

Question. Did you see Judge Douglas on that occasion?

Answer. I did not see him at the time. I saw him some little time after the difficulty was over. I then saw Mr. Douglas, Mr. Fitzpatrick, and Mr. Slidell, and, I think, two or three others coming in. They had been, probably, in the ante-room of the Senate at the time of the difficulty. They came in immediately after the occurrence took place.

Question. (by Mr. COBB.) Did these gentlemen come in after all the assistance had been rendered Mr. Sumner was necessary?

Answer. I think so. They were then preparing to take him out. I could not be particular in stating the precise instant in which they came into the senate chamber. I recollect generally, that several persons came in immediately after the occurrence; but before they came other persons had rendered all the assistance that could be rendered to Mr. Sumner. Mr. Sumner asked for his hat, and several bystanders looked around among the desks and chairs for it. By this time, I should suppose there were thirty or forty people in the Senate chamber.

Question. (by Mr. PENNINGTON.) Have you any knowledge of any premeditation of this act?

Answer. None whatever. I never heard anything of it until I heard the parties in conflict. I never heard that it was in contemplation, or spoken of in any way—not even in the street—and I now know noth-

ing about any premeditation. I have had no conversation with Mr. Brooks, except what I then had with him in the aisle. I have not seen him since.

Question, (by Mr. GREENWOOD.) You said Mr. Douglas was standing in the aisle at the time the difficulty took place?

Answer. He was not standing there at the time the difficulty occurred. I did not see him until afterwards. I have no idea that he was there. I was standing talking to Governor Gorman. I do not recollect seeing Mr. Douglas until after the difficulty occurred. I had been in conversation with Mr. Iverson, Mr. Brown, and Governor Gorman, alternately. I left my colleague, and meeting Governor Gorman I stopped with him to have some conversation; and while we were talking this thing occurred.

Question, (by Mr. PENNINGTON.) Was there any other desk overthrown than the one at which Mr. Sumner was sitting?

Answer. I do not remember. I do not recollect seeing any. My impression is that no other desk was overturned. I noticed more in reference to the desks while they were looking for the hat than perhaps I should otherwise have done. I do not think any other desk was overturned, though I am not sure about it.

ROBERT TOOMBS.

Hon. L. F. S. Foster sworn.

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner, in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I was sitting at my desk on Thursday last in the Senate chamber, after the adjournment of the Senate, engaged in writing a letter. According to my recollection the Senate adjourned about one o'clock. While thus engaged in writing, at about fifteen or twenty minutes past one o'clock, my attention was suddenly attracted by a noise partially behind me as I was sitting. I turned round to learn the cause, and saw the Hon. P. S. Brooks, a member of the House of Representatives, striking the Hon. Charles Sumner, a member of the Senate, over the head with a cane. I ran to the parties instantly, with a view to stop the commission of violence; and got partly between the parties with my face towards Mr. Brooks, and my back towards Mr. Sumner. At about the same instant, one or more persons seized hold of Mr. Brooks from behind, or standing by his side, and turned him round, with his face towards the front door of the chamber. This stopped the blows; and I instantly turned to see the condition of Mr. Sumner, and saw him nearly prostrate on the floor, supported by the Hon. Mr. Morgan, a member of the House of Representatives. Mr. Sumner seemed nearly unconscious, and was bleeding freely from the wounds on his head. Mr. Morgan begged some one to call a surgeon, and the reply was, that one had been sent for. I ran for a glass of water; and when I returned with it, one of the pages had already procured one, and was offering it to Mr. Sumner. It was suggested that it would be best to convey Mr. Sumner to the ante-room and lay him on the sofa. Mr. Sumner seemed to

have recovered his consciousness ; said he thought he could walk ; he also requested that the documents at his desk might be taken care of. He was taken to the ante-room, where he remained till the surgeon arrived, who examined his wounds and partially dressed them, when he was removed to his lodgings.

This is a brief statement of the facts which fell under my observation. The transaction, so far as the infliction of the blows is concerned, was of very short continuance. In a time of so much excitement I should hesitate as to giving an opinion for which I should claim accuracy as to the precise length. I hardly think it could have exceeded one minute. Mr. Sumner was in the act of rising, or had risen, when I first turned my head, attracted by the noise, and seemed reeling or staggering under the blows. His desk was overturned—whether that made part of the noise which first attracted my attention, or not, I cannot tell. I cannot tell how many blows were struck ; they were struck with extreme rapidity—perhaps as many as a dozen ; but it is with no confidence that I speak of a precise number.

Question. (by Mr. PENNINGTON.) How many blows did you see struck ?

Answer. I have already said that I could not form any positive opinion as to how many blows I saw struck. I could not state with any accuracy at all. They were struck with extreme rapidity. I think any one standing by would have found it impossible to count them.

Question. Were they struck with very much force ?

Answer. They were struck with violence ; I should think with as much violence as Mr. Brooks could use, considering the elevation of Mr. Sumner's position, and the rapidity with which they were struck. A man, standing as he did, and striking as fast as he could an object elevated as Mr. Sumner was, could not strike with as much force as if he were lower and struck more deliberately.

Question. Did you see any participation in the assault by any other person than Mr. Brooks ?

Answer. I did not. My eye was fixed intently upon him, and if there had been others standing by I should scarcely have noticed it. My object was to get between the parties, and to stop violence.

Question. Did you hear any expression upon the part of any other person in the nature of a threat ?

Answer. While I was coming around to the parties, I think I heard broken words, something like this : " Let them alone ; " " It is all fair," or something like that—broken parts of sentences.

Question. Did Mr. Sumner strike any blows, or make any defence ?

Answer. I think not. His whole manner seemed to me like a person in convulsions ; his arms were thrown around as if unconsciously. There was no resistance, as I should judge ; I did not see them all the time. From the time that I started until I got around to where they were—and I went as fast as I could, it took me only an instant—they were out of my sight. That is all I can say in regard to it.

L. F. S. FOSTER.

Hon. Ambrose S. Murray sworn :

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner, in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I was, on Thursday last, the 22d of this month, standing near the south entrance of the Senate chamber, behind the screen, just back of Senator Clayton's seat, talking to Mr. Morgan and Mr. Simonton. I heard a blow or blows struck, I could not say which, and some rushing in the Senate chamber. I immediately looked around to see what was going on. I saw Mr. Brooks striking some person with a cane very rapidly. I ran back around the outside of the rail, around the Senate passage-way, and I saw Mr. Brooks continuing his assault, striking Mr. Sumner with a cane over the head and shoulders. I came up the passage-way, and there were a number standing around. I saw nobody interfering to prevent the assault, or actively interfering, except Mr. Crittenden. He, apparently, was trying to prevent Mr. Brooks' assault upon Mr. Sumner. I immediately stepped up behind Mr. Brooks and caught him by the body and the right arm, drew him back, and turned him around from Mr. Sumner. I then turned around to Mr. Sumner. He was lying down, resting partly upon one of the desks that had been turned over, seeming very much stunned, and covered with blood.

That was the end of the assault, and all that I saw. There were a number of gentlemen present. My opinion is that twenty persons, or upwards, were standing around.

Question, (by Mr. CAMPBELL.) Will you name them?

Answer. I saw Mr. Foster, Mr. Keitt, Mr. Crittenden, and a large man, I think the doorkeeper or sergeant-at-arms. I do not recollect any others now, except Mr. Morgan and Mr. Simonton. A number of persons, however, came in shortly after. I think there were twenty or upwards in the room at the time the occurrence took place, but I did not know them, or do not recollect their names. Mr. Brooks struck Mr. Sumner a great number of times, I should think from ten to twenty. It was done in very rapid succession.

Question. Did he strike after Mr. Sumner was down?

Answer. I think not. When I came up Mr. Sumner was reeling around against the seats, backwards and forwards, and after I pulled Mr. Brooks back Mr. Sumner fell over.

Question. Did he make any effort to strike him again?

Answer. I caught his arm just as he was in the act of striking another blow.

Question, (by Mr. PENNINGTON.) What was the position of Mr. Sumner at that time?

Answer. He was standing up, or rather appeared to be reeling around, not defending himself at all. The blows were falling very thick upon his neck and shoulders.

Question. When the last blow was struck was he still standing?

Answer. He was not standing erect at any time after I saw him. He seemed to be reeling around against the desk. There were two or

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three of them thrown over—two at all events, and I do not know but more.

Question. Did you see any person interfere in support of Mr. Brooks?

Answer. I do not know that I saw any other person interfere. I saw Mr. Keitt standing near at the moment I caught hold of Mr. Brooks, but I saw no person trying to separate them except Mr. Crittenden.

Question. Did Mr. Keitt interfere to prevent their being separated?

Answer. Not to my knowledge.

Question. Did you hear any threatening language from Mr. Keitt?

Answer. I did not.

Question, (by Mr. SPINNER.) At what time was the assault committed?

Answer. I do not know. I passed over to the Senate about the time it adjourned, and the occurrence took place not very long after.

Question. You stated that you went outside of the bar at the time the striking commenced, and went around, and that when you arrived Mr. Brooks was still striking?

Answer. Yes, sir.

Question. What was the distance from the point where you started?

Answer. I do not know. I suppose about fifty feet. I went around as quickly as I could.

Question. But the striking had commenced when you started, and was still going on when you arrived?

Answer. Yes, sir, I think two or three blows were struck before I started. I immediately looked around, and went to the place as quickly as I could.

AMBROSE S. MURRAY.

Hon. Edwin B. Morgan sworn :

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I went into the Senate immediately upon the adjournment of the House, on the day the assault is alleged to have taken place, the 22d instant. I entered by the private entrance near Mr. Clayton's seat, and was in conversation with Mr. Simonton and Mr. Murray directly behind the screen at the corner. After I had been there for a few moments I heard a noise, thumps, pounding, and rustling disturbance. I turned immediately, and there were, perhaps, two or three blows given with a cane. I stepped one step only around the screen, and saw Mr. Brooks in the act of striking directly over Mr. Sumner. I cried out to those who were around to take him off, and ran as rapidly as I could, passing by the clerk's table and up the aisle. There were other persons in the Hall; who they were I cannot say. My eye was upon Mr. Brooks and Mr. Sumner, rather than upon others. Mr. Murray, who started at the same time, and went around the outside of the bar, got there the very instant I did. He caught Mr. Brooks by the arm while in the act of striking, and I

sprang between Mr. Brooks and Mr. Sumner, and caught Mr. Sumner in the act of falling, so that my being there at the moment saved him from falling as heavily upon the floor as he would otherwise have done. The blows came with great rapidity. I cannot tell how many were given, but I suppose fifteen or twenty, and possibly more. There were but few persons in the Senate chamber at the moment, that I recognised. Among others, I noticed Senators Evans, Foster, Crittenden, Toombs, and Bright. I do not recollect now of any others. Of members of the House, Mr. Murray and Mr. Keitt were all I recollect of seeing, although others came in immediately after. I speak of the moment when the assault took place as near as I can recollect, and judge there were twenty or twenty-five persons in the room at the time. There might not have been quite as many, and possibly more. At the time I saw Mr. Sumner, his head was down, and Mr. Brooks apparently had hold of his coat-collar. I know he had, a portion of the time. He was standing directly over him. Mr. Sumner made no effort at all to protect himself; indeed he was reeling and staggering about; and when he fell was entirely insensible. He did not know me for some time. These are substantially the facts which came within my knowledge. Every effort Mr. Sumner made was merely spasmodic, and I do not believe he was conscious from the first blow.

Question. Have you stated the number of blows?

Answer. I cannot state the precise number: I should suppose there were fifteen or twenty; there might have been more. They were given with great rapidity, and in the excitement of the moment it would be impossible to tell, for I started upon a full jump.

Question. (by Mr. PENNINGTON.) How were the blows aimed, and with what vigor were they laid on?

Answer. I do not think he could have given them with any greater force. I think he was exerting himself to the full extent of his power.

Question. Upon what part of the person were they aimed?

Answer. Over the head directly; he was standing directly over Mr. Sumner. When I first discovered him he was standing, and Mr. Sumner was sitting; Mr. Sumner had not risen from his seat; he was behind his desk; his head was leaning forward. Mr. Brooks was standing directly in front, and hitting him over the head.

Question. Did Mr. Sumner say anything?

Answer. I do not think he uttered a word; if he did I did not hear it.

Question. What appeared to be his condition as to consciousness?

Answer. I have no idea from his appearance, as I recollect it, that he was conscious, and I thought of it immediately afterwards, and do not think he was at all conscious of anything. I judged so, among other things, from the fact that he made no effort to defend himself by any way—not even to defend his head from the blows which were being laid on, and which he naturally would have done had he been conscious, and from his general appearance.

Question. Did anybody other than Mr. Brooks take any part in the assault, as you saw, directly or by aiding and abetting it?

Answer. I saw Mr. Keitt flourishing his cane near him and uttering something, but I have no knowledge what.

Question. State at what period you saw this.

Answer. It was at the moment of my arrival. Indeed I saw him on my way flourishing his cane, but heard nothing he said.

Question. Did any one else attempt to interfere when you were there?

Answer. No, sir; there was no interference.

Question. Where was Mr. Keitt standing when you saw him flourishing his stick?

Answer. At or near General Cass's seat. He was, at that moment, standing still. It was at the time Mr. Sumner fell, or immediately previous.

Question. Where was Mr. Keitt at the time Mr. Murray separated Mr. Brooks from Mr. Sumner?

Answer. I cannot say where he was at that moment. At the time Mr. Sumner fell, my back was partially towards Mr. Keitt. As Mr. Sumner fell, my back was turned towards the aisle; perhaps one foot was in the aisle, and the other upon the rise.

Question. Can you repeat any language used by Mr. Keitt upon that occasion?

Answer. I cannot.

Question. Do you recollect whether Mr. Crittenden interfered?

Answer. I saw Mr. Crittenden. He was the only person, with the exception of the reporter or clerk—I do not know which, but I am inclined to think it was the reporter—who did interfere. He was apparently making his way to the parties for the purpose of making some effort at interference. Mr. Crittenden was making similar demonstrations. I did not see him take hold of any one, but he evidently was endeavoring to get the parties separated. My impression is that he did not take hold of either of the parties.

Question. Were the demonstrations of Mr. Keitt, to which you refer, before or after you saw Mr. Crittenden and the officer of the Senate interpose?

Answer. They were at the same time. My impression is they were just at the same moment. It was while I was passing up the aisle, or at the moment of my arrival. Of course it was all very quick work, and the occurrences were so rapid that all that was said and done was almost in the same moment of time.

Question. (by Mr. COBB.) Did any one take hold of Mr. Brooks?

Answer. Yes, sir.

Question. Who was it?

Answer. Mr. Murray.

Question. No one else?

Answer. I cannot say that they did. Mr. Murray and myself arrived there at the same instant of time. I was nearest Mr. Sumner, and he was nearest Mr. Brooks. We started from the same point, but went different routes; he caught the arm of Brooks, and I the falling body of Sumner.

Mr. Murray, myself, and other gentlemen, assisted Mr. Sumner to the ante-room, after several minutes during which he lay upon the

floor of the Senate unconscious. His wounds were there dressed by a surgeon, and we again assisted him into a carriage, when he was taken to his lodgings.

His head bled profusely, and my coat and shirt-sleeves were saturated with blood, while holding his head from the floor.

EDWIN B. MORGAN.

Hon. Henry Wilson sworn :

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner in the Senate chamber, by the Hon. Mr Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I was not present. I had left the Senate chamber before the occurrence took place. I learned, as I was passing down the street, that an assault had been made upon Mr. Sumner, and I went back. When I arrived he was having his head dressed in the ante-room. I assisted and went with him to his room. I did not see anything of the assault.

Question. Do you know anything of any threats made prior to the assault by any of the parties implicated?

Answer. I know of none of my own knowledge. Mr. Bingham, of the House of Representatives, said to me just about the time the Senate adjourned : "You had better go down with Mr. Sumner ; I think there will be an assault upon him." Said I, "Do you think so?" He said : "I have heard remarks made, from which I think an assault will be made." I afterwards said to Mr. Sumner that I would like to talk with him, and I spoke to Mr. Burlingame and to Mr. Colfax to walk down with us. While I was standing talking to Mr. Burlingame, Mr. Sumner went to Mr. Sutton's desk, and then went out of the side-door. I waited, supposing he would come back and go down with us. But he did not come, and we left the Capitol, but waited some time near the porter's lodge until we heard he had gone home. That is all I know, and it is merely hearsay. I gave myself little trouble about it. I went up to his room afterwards, but did not find him at home. Mr. Sumner paid no attention to what I said. I merely said I wanted to walk down with him ; that I wanted to talk with him.

Question, (by Mr. COBB.) When was this remark made by Mr. Bingham?

Answer. After Mr. Sumner had closed his speech on the second day, in reply to Messrs. Cass, Douglas, and Mason.

Question. You were saying you spoke to Mr. Sumner, and said you wished to go down with him that day. Did you intimate to him that you had heard this report?

Answer. No, sir.

Question. Did you state to him afterwards why you wished to go down with him that day?

Answer. I do not think I did. I said then I wanted to talk with him ; and I said to two or three gentlemen that I wanted them to come with us ; "for," said I, "it is possible there may be some demonstration against him."

Question. Did you at that time, or afterwards, indicate to Mr. Sumner those words of apprehension of yours, prior to the assault?

Answer. I am not certain whether I did or not. It is possible I may have done so. I do not know that I did.

Question. You had no conversation with Mr. Sumner as to the importance he attached to these words?

Answer. None at all. I do not know that I ever spoke to him in reference to those threats, or in reference to any threats being made towards him.

Question. Had you any other conversation with him between the delivery of his speech and the assault?

Answer. I would say it is possible that I had. When I saw him that night, I told him I had been hunting for him—that I did not know that he had gone down. I do not know that I intimated to him my reason for wishing to go down with him, but it is possible I may have done so. If I did, I have forgotten it. I had no suspicion that any such occurrence was going to happen. After the Senate adjourned, I sat at my seat closing a letter to my wife. As I rose to take my cane, Mr. Brooks was sitting near General Houston's seat. His eye happened to meet mine, and we bowed to each other. I went out, and it never occurred to me that anything of the kind was to occur.

HENRY WILSON.

Hon. John A. Bingham sworn:

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made on Mr. Sumner, in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I know nothing whatever.

Question. Do you know anything of any threats made by members of the House of Representatives, or others, in regard to the speech which Mr. Sumner had made in the Senate?

Answer. I do not.

Question. Had you any reason to apprehend that an assault would be made on Mr. Sumner after the delivery of that speech?

Answer. I can only say that I had no reason to apprehend danger to Mr. Sumner, except what I inferred from the language of senators at the time he closed his speech. What they said then led me to believe that an attempt to assail him was intended, or was intended to be encouraged.

Question. Were the threats of senators, of which you speak, uttered in debate, or outside?

Answer. They were uttered in debate. I do not recollect hearing anything of the kind except what was uttered in debate, coupled with the manner of senators. These are all the reasons I had for apprehending an assault.

Question, (by Mr. COBB.) Did you communicate to Mr. Wilson your apprehensions in reference to Mr. Sumner?

Answer. I did, before the Senate adjourned, communicate with Mr. Wilson. I said to Mr. Wilson that it was my opinion an assault was

intended upon Mr. Sumner, and that he had better see to it that no assault was made.

Question Did you communicate to Mr. Wilson that you had heard any threats uttered except in public debate?

Answer. No, sir ; I did not intend to communicate anything except my own impression. What I said was under a little excitement, and was certainly not intended to be made public. I apprehended that the language used by Mr. Douglas, "Does he [Sumner] want somebody to kick him?" or something to that effect, was designed to produce or encourage an assault. That was my communication to Mr. Wilson, that he ought to see to it, and not permit the assault to be made. I thought he [Mr. Wilson] ought to see that it was not done ; I was apprehensive that such an assault might follow in consequence of this ebullition of feeling on the part of senators. That is all I know about it.

Question, (by Mr. PENNINGTON.) What other expressions were used which led you to believe an assault was intended besides the one you have mentioned?

Answer. There were several expressions besides the one I have quoted, from which it seemed to me that an assault was contemplated. I think Mr. Douglas remarked, in substance, that something would happen to the senator for his assault on the senator from South Carolina, following it up with the statement, that he knew what would happen ; that as soon as the senator from South Carolina returned, he [Mr. Sumner] would go and whisper an apology in his ear.

Question, (by Mr. GREENWOOD.) Are you attempting now to repeat what occurred in the debates of the Senate?

Answer. I am attempting to repeat the substance of what I heard in debate there in reply to Mr. Sumner ; and to state what I inferred and expressed at the time as a necessary consequence of such language as that used upon quick and excitable persons. It is perhaps due to myself to say, that I made that communication to Mr. Wilson privately ; it was not intended to be overheard by any one else, or to excite any disposition in the mind of anybody to do violence. I believed myself at the time, as I have stated, that there were persons there who would be foolish enough, moved by such language as was employed towards Mr. Sumner, to commit an assault upon Mr. Sumner.

JOHN A. BINGHAM.

Isaac Holland sworn :

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made on Mr. Sumner, in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I was in the Senate at the time, but did not see the assault at all, when it commenced. But when I did see the parties, I saw Mr. Brooks, I presume, striking blows—heavy blows, upon Mr. Sumner. I ran up, and observed that, as an officer of the Senate, I commanded peace. Mr. Keitt interposed, and said something about not interfering. Mr. Sumner was then down, and Mr. Foster and myself went to help him up. I thought he was very much hurt.

Question. How often did Mr. Brooks strike?

Answer. I think some four or five times. I do not know. I did not see the commencement. When I heard blows I went up immediately, but some one had taken away Mr. Brooks, and Mr. Sumner was down.

Question. State what Mr. Keitt said?

Answer. I do not recollect distinctly what he said. He was standing there with a stick in his hand. Mr. Sutton told me that he used threats towards me, but I did not hear them. I got up as near as I could to the parties, but I could not get near enough to aid in separating them. I heard blows, and immediately ran up, as an officer of the Senate, to command peace. Mr. Sumner was then down. He fell about the time that I got near him.

Question. Were there any other persons who showed any disposition to prevent you from preserving peace?

Answer. No, sir; no person said a word. Mr. Keitt came to me afterwards and said that he had understood it had been said that he had struck me, and he came to tell me that he had not struck me. I told him that he had not.

Question. What did he say at the time you went up to Mr. Sumner?

Answer. I understood him to make some remark telling me not to interfere. I do not recollect his saying anything else, or using his stick.

Question. What did Mr. Keitt say? That is the point.

Answer. I do not think he said anything. I was attending to Mr. Sumner, who was down.

Question. Did you hear him say anything to anybody at the time?

Answer. I did not.

Question. Now, let me commence over again. Were you present in the Senate chamber at the time Mr. Brooks, of South Carolina, made an assault on Senator Sumner? If you were, state what you saw and heard.

Answer. I was in the Senate chamber. I heard a blow, and ran up as soon as I could get there. I saw blows struck. I saw Mr. Sumner fall, and I helped to take him up. I did not see the first assault upon him at all.

Question. Did any other person than Mr. Brooks either participate in the assault, or show any disposition, by words or otherwise, to prevent persons from protecting Mr. Sumner?

Answer. I saw no one attempt to interfere. There were several gentlemen near at the time; but no one interfered that I recollect.

Question. Can you name the senators and members of the House who were in the Senate chamber at the time?

Answer. I do not recollect any member of the House who was there. Mr. Foster was there, Mr. Pearce was there, and, I think, Mr. Crittenden, Mr. Fitzpatrick, and Mr. Toombs.

Question. Did you see any member of the House near Mr. Sumner at the time you reached the point where he fell?

Answer. I do not recollect that I did. Mr. Brooks stood with his back towards me at the time.

Question, (by Mr. PENNINGTON.) I understood you to say that Mr. Keitt came up and stopped you from interfering?

Answer. No, sir; I did not say that. Mr. Keitt was standing, and made some remark which I did not hear.

Question. What did you understand to be the object of his remark, or the object of his interposition?

Answer. I believe it was for the purpose of preventing my interference.

Question. Did you not so understand him; and did you not desist in consequence?

Answer. I did not desist, for I had not interfered.

Question. Has Mr. Keitt stated since what his object was?

Answer. He came to me to say that he had understood that it was said that he had struck me. I said he had done no such thing. I understood him that his business was to prevent Mr. Foster and me from interfering, or something to that effect.

Question, (by Mr. COBB.) I want to understand you. Will you state what was the remark Mr. Keitt made, and not what you understood was the effect of it?

Answer. I did not hear what the remark was; but he came to me afterwards and said, as well as I recollect, that he had understood that I had said he had struck me. I said he did no such thing.

Question, (by Mr. COBB.) Then that is all he has said to you since?

Answer. Yes, sir.

Question. Then all he has said to you since is that he told you he heard you had said he struck you, and you told him he did not strike you. Is that all?

Answer. That is all.

Question, (by Mr. PENNINGTON.) Then I am to understand that he did not tell you that Mr. Foster was trying to stop Mr. Brooks?

Answer. I understood him to say that.

Question, (by Mr. COBB.) But you said just now, "that was all." What did he say to you about Mr. Foster?

Answer. He said that he thought that Mr. Foster and myself were going up for the purpose of interfering.

Question. Well, what else?

Answer. I do not recollect.

Question. Then I am to understand that he supposed at the time that you and Mr. Foster were going up to interfere?

Answer. Yes.

Question. Did he say anything more?

Answer. He said something about so many lies being told.

Question, (by Mr. PENNINGTON.) Did he make any apology for having interfered with you at the time?

Answer. I thought that was his business at the time; and to contradict anything that had been said about striking me.

Question. What reason did he give in conversation for coming up to you?

Answer. He said he thought Mr. Foster and myself were coming up to interfere to prevent Mr. Sumner from being beaten.

Question, (by Mr. CAMPBELL.) Did Mr. Keitt at any time, during

the assault or since, say to you that either he or his friends were there for the purpose of witnessing the assault, or preventing persons from protecting Mr. Sumner?

Answer. I think he did say something about he or his friends being there for that purpose. Of this fact I am certain.

Question, (by Mr. COBB.) Repeat the words that Mr. Keitt used?

Answer. I stated that I did not recollect what were his words.

Question, (by Mr. CAMPBELL.) Repeat, if you can, the precise language of Mr. Keitt in reference to the parties, himself and his friends, as nearly as you can from memory?

Answer. When he came up to tell me this, it was to contradict what had been said. He said he thought that Mr. Foster and myself were going up to prevent an assault, and, as I understood him, that his purpose and that of his friends was to prevent any interference. That is about what I recollect, and I think Mr. Keitt will say about the same thing.

Question, (by Mr. COBB.) You are clear about that?

Answer. I do not think I am mistaken.

Question. And are you not clear about all you have testified to?

Answer. Yes, sir; after I saw him strike, I ran up and called out as loud as I could, "I command the peace." And our reporter says Mr. Keitt raised a cane just as Mr. Sumner was falling in the aisle.

Question, (by Mr. SPINNER.) How long after the adjournment did this occurrence take place?

Answer. It could not have been long. Mr. Sumner was at his seat the whole morning. I did not see Mr. Brooks come in. What I saw was the striking of his blows.

ISAAC HOLLAND.

Hon. J. J. Crittenden sworn:

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I think it was on Thursday last, the Senate adjourned early in consequence of the announcement of the death of a member of the House. I happened to remain in the Senate chamber for some time after the adjournment, and I was witness to the conflict between Mr. Sumner of the Senate, and Mr. Brooks of the House of Representatives. I was entirely unapprized of any such occurrence, and was taken, of course, very much by surprise at it. I did not see the commencement of it. I was at some distance in the chamber from where it occurred, and was engaged in conversation with Mr. Pearce, of Maryland. My attention was not attracted towards the parties, and was only directed to them when I heard a sudden and unusual noise. I raised my head and saw the contending parties when I heard the noise of the conflict. Mr. Pearce was sitting with his back to them, and did not see them, I suppose, by an instant as soon as I did. I immediately left my seat and went towards the parties for the purpose of interposing, as well as I could, to separate them. Mr. Brooks had a stick in his hand; Mr. Sumner had none. I thought,

when I first saw them, and when I started, that both parties were standing up and combating. Mr. Brooks certainly was; and with a cane which he held in his hand he dealt many very severe blows, as I thought, over the head, and perhaps over the arms and shoulders, of Mr. Sumner. As I passed behind the planking that is put back of the seats of those senators who sit near Mr. Pearce, I reached them in a very short period afterwards; but, of course, I was out of sight of the combatants. I thought before I got there, that Mr. Sumner was sinking under the blows. When I got round in view, the combat was all over. No blow was struck that I saw after Mr. Sumner had fallen. He was lying down upon the floor bleeding and exhausted, and apparently unconscious. I believe that is the substance of what I know. I was surprised, as I have said, at the conflict. I did not know that the parties were in the room until after the conflict commenced. I heard no words pass between the parties before, or during, or after the conflict.

Question. Did you recognise any members of the House present at the time?

Answer. I recollect seeing Mr. Keitt, and I believe Mr. Edmundson.

Question. Was this at the time of the assault?

Answer. No. I think that Mr. Edmundson stepped down from the space on the other side of the door. The conflict took place just at Mr. Sumner's seat. It was all over when I got there. After that time, I think I saw Mr. Edmundson. It was, of course, a very hurried scene—over in a very short time. I would not be very positive, but I think that about the time it was all over I saw Mr. Edmundson step down from the seats on the other side.

Question. From what direction did you see Mr. Keitt approach?

Answer. I did not see him approach at all. I found myself standing near him in the aisle. I saw no interference in the fight—none.

Question. Did you observe upon the part of any person any effort to prevent an interference upon the part of the officers of the Senate?

Answer. I did not. The conflict lasted, as you may imagine, a very short time; half a minute, I suppose, would have covered the whole of it. During a portion of that time I was passing from my seat to the scene of conflict. I saw no interference, or attempt of interference, and, of course, I saw no prevention.

Question, (by Mr. PENNINGTON.) Did you interfere to arre thes commission of violence?

Answer. That was my object; but, when I got to the parties, it was all over.

Question. You speak of a conflict, and of the parties as combatants. Were both the parties engaged as such?

Answer. That was my impression when I first saw them, but I may have been mistaken. The arms of both were in motion, and I supposed both were combating.

Question. What was your distance from the parties?

Answer. About twenty feet.

Question. Did you hear no words from Mr. Brooks?

Answer. I did not, and have seen neither party since.

Question, (by Mr. SPINNER.) How long was it after the adjournment of the Senate?

Answer. I cannot say exactly. I suppose it was within an hour.

Question, (by Mr. PENNINGTON.) Did Mr. Brooks address any offensive observation to you in regard to the affair?

Answer. None—I had no conversation with Mr. Brooks. I did express my disapprobation of such violence in the Senate chamber. It was addressed to no one in particular, but was made in the hearing of all present. Mr. Brooks was some little distance from Mr. Sumner, and had come down from the passage way when I met him; he was one of the first persons that I met. He had a piece of the stick in his hand with which I supposed he had been combating. I took hold of it, and he very gently yielded and allowed me to take it out of his hand.

Question. Of what size was the stick?

Answer. It was nothing in size but a common walking-stick, such as gentlemen frequently use. I did not examine it with a view to accuracy, and presently I handed it to some one else.

J. J. CRITTENDEN.

C. S. Jones sworn:

Question. What do you know of the facts connected with the assault alleged to have been made on Mr. Sumner, in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. On the 22d of this month (May) I was in the Senate chamber writing at the desk of the secretary, the Senate having adjourned. I heard a crash, looked up from the paper before me, and saw Mr. Brooks beating Mr. Sumner on the head with a cane; the blows were violent and repeated. I immediately started towards the parties engaged; but hearing some one remark that there should be no interference, and seeing a number of gentlemen coming together from different parts of the chamber, I hesitated a moment under the impression that a general conflict was about to take place. I stopped but an instant, however, and again started rapidly, reaching Mr. Sumner at the moment he fell, in company with Mr. Morgan, of New York. I took hold of him at the same instant with Mr. Morgan, and was about to assist in raising him up when Mr. Simonton, of the New York Times, advised that a physician should be sent for. I left Mr. Sumner with those gentlemen, and went out of the north door of the Senate to get my hat, passing through the ante-room. I there saw Judge Douglas and Mr. Slidell, and two other gentlemen, in close conversation; I told them what had occurred, and they started to go in the Senate. I hastened to the eastern door under the portico, took a hack, and procured the services of Dr. Boyle, who attended and dressed the wounds. I returned with Dr. Boyle, and remained in attendance, rendering all the assistance in my power.

Question. Do you know the person or persons who stated there should be no interference?

Answer. I do not; it was said by a party opposite me. Mr. Mor-

gan and myself approached up the centre aisle, and reached Mr. Sumner at the same moment.

Question. Did you see any members of the House around at the time you took hold of Mr. Sumner and raised him up?

Answer. I saw Mr. Morgan. I had seen other members in the aisle at the time, but my attention was not directed to them.

Question. Did you see Mr. Keitt immediately after the occurrence?

Answer. Not in the Senate chamber. I had to go into one of the side rooms, and while there I saw Mr. Keitt and Mr. Brooks. This was after Mr Sumner had been removed, and after I had procured the services of a physician. I had seen him and other members about before the conflict, and it produced the impression for the moment that there was to be a general conflict.

Question, (by Mr. PENNINGTON.) What was Mr. Sumner's position when you first saw blows struck?

Answer. He was in the act of rising from his desk.

Question. Did you notice the falling of his desk?

Answer. Not at the moment; there was such a general crash.

Question. How many blows were struck before your attention was directed to, and saw him rising from his place?

Answer. I do not know. When my attention was directed to them, the blows were struck with great rapidity.

Question. You stated that you heard some one remark that there should be no interference; was that remark made by more than one person?

Answer. Only by one voice. It was on the opposite side of the aisle from me. I saw persons coming round through the lobby and through the aisle.

Question. Was the remark made by some person standing in the middle aisle?

Answer. No, sir; I was standing in the middle aisle; it appeared to come from some person who was in the position Mr. Sumner occupied when the affair commenced, he and Mr. Brooks being between that person and me.

Question. Did you see Mr. Keitt with any cane?

Answer. My recollection is that he had a cane.

Question. Where did you first see Mr. Keitt after the blows were struck?

Answer. The first positive recollection I have of seeing him was in a side room with Mr. Brooks; they were washing Mr. Brooks's eyes. He had a slight cut over the eye. The contest was very quick; one of these things will pass over before you realize it.

C. S. JONES.

On motion of Mr. COBB, the committee took a recess for half an hour.

Dr. Cornelius Boyle sworn:

Question, (by Mr. CAMPBELL.) Were you called upon as a surgeon to dress the wounds of Mr. Sumner on the 22d instant?

Answer. I was.

Question. State the condition in which you found him, and the character of his wounds?

Answer. I found Mr. Sumner in the ante-room of the Senate bleeding very copiously, and with a great deal of blood upon his clothes. The blood went all over my shirt in dressing his wounds. His friends thought I ought not to dress his wounds there, but take him to his residence. I differed, and stated my reason, that if I dressed his wounds at once and at that place, they would heal by first intentions; and that if I did not, suppuration might take place. Mr. Campbell, I think, was present, and some others, and they agreed with me. I put four stitches—two into each wound; he then went to his room. I came there an hour afterwards. The blood stopped as soon as I drew the wounds together. He was doing very well.

Question. Describe the character of the wounds, and where they were?

Answer. They were both on the scalp. There were marks of three wounds on the scalp, but only two that I dressed. One was a very slight wound, that required no special attention. One was two and a quarter inches long, cut to the bone—cut under, as it were, and very ragged. This wound has healed up without any suppuration at all. The other is not quite two inches long, and has healed up within about half an inch, and has suppurated.

Question. Were they both cut to the bone?

Answer. They were. I have the probe now in my pocket, from which the blood has not been washed. [Instrument produced.] One was a cut to the depth of nearly an inch. It is only an eighth of an inch to the scalp, but it was cut in and down. I have mentioned the fact that one of the wounds was two and a quarter inches long, and the other about one sixteenth of an inch less than two inches.

Question. State on what part of the head the gashes were inflicted?

Answer. One wound was behind, on the left side of the head, and the other was rather in front, about two inches from the median line.

Question. Were there any other bruises or cuts upon his head?

Answer. There was one slight mark on the back of his head, but not severe enough to require dressing, and I have not paid any attention to it since. There were marks on the hands also, and a red mark down the face near the temple, which has disappeared, as though it was caused by a faint blow.

Question. State whether blows inflicted with a cane or stick three-fourths of an inch in diameter, producing wounds of that kind, might have caused death as a consequence?

Answer. That depends on the position of the blows on the head. These were simply wounds on the scalp. If one of these blows had been on the temple, a rupture of the temple artery might have been the consequence, and would have produced a pressure of the brain, from which death might have ensued; but these blows hit the thickest portion of the skull. There are no arteries at that point of any magnitude. I once knew a case where a person was hit with the fist on the side of his head, and knocked down; he was perfectly well for several hours; he went to a supper, and ate heartily of oysters; after eating supper, and after walking round a square, he was taken sud-

denly very sick, and in about twenty minutes died. There was in that case a pressure of the brain, but it was a different case from this. Wounds of the scalp may be dangerous in several ways. For instance, erysipelas might be the consequence. Surgeons generally look upon erysipelas as very often causing death from wounds of the scalp; but there is no erysipelas in this case.

Question. State whether, in your opinion, if the blows which produced these gashes had been upon another part of the head, they might have caused the death of the party?

Answer. It would be impossible to answer; the skulls of people are so different in thickness; some are very thin, and others are very thick. The blows themselves would not produce death as a general thing.

Question. Upon any part of the head?

Answer. That depends upon the rupture of the arteries. No person could give an opinion until the occurrence had taken place. Such blows would not ordinarily produce death.

Question. You mean to say, then, that blows of this kind upon the temple might have produced death?

Answer. I think probably they might have.

Question. (by Mr. COBB.) What is your opinion of these wounds, just as they are?

Answer. I look upon them simply as flesh wounds.

Question. What would you say of the nature of these wounds?

Answer. They are nothing but flesh wounds.

Question. What is your opinion in reference to the condition of Mr. Sumner? How long need he be confined on account of these wounds?

Answer. His wounds do not necessarily confine him one moment. He would have come to the Senate on Friday, if I had recommended it.

Question. Could he have come out with safety?

Answer. He could have come with safety, as far as the wounds were concerned.

Question. And, as a matter of course, from that time to the present?

Answer. Yes, sir; he stated that he would be ready to appear before the committee to-day.

Question. (by Mr. CAMPBELL.) At what time did he make that statement?

Answer. On Sunday evening he told me to state to Mr. Campbell, who had addressed him a letter through me, which I delivered, that he would be ready to attend the committee on Monday. His friends advised him not to appear until the next day, and, therefore, he told me to inform Mr. Campbell that he would appear on Tuesday.

Question. State in this connexion, whether there were any other persons with him—I mean any physicians who advised that perhaps it might not be safe for him to go out?

Answer. I have seen no medical man with him but myself. There has been none there. There are a great many friends present, and they make Mr. Sumner out a great deal worse than he is. They say he has a fever. I have never discovered any. I have been his constant attendant, and I have never known his pulse at any moment

higher than eighty-two. I yesterday corrected an article in the *Intelligencer*, stating that he had a fever, and the correction appears in to-day's paper. He has no fever to my knowledge. I have visited him twice a day. His brother said he ought not to come out, and cited a great many cases that had come under his observation in Paris, where death had taken place in six weeks from blows on the head. His brother is not a medical man. Senator Sumner of course took the advice of his brother and his friends, and I, of course, allowed them to do as they thought proper. Perhaps I ought to state my reason for objecting to his coming out on Friday. There was a good deal of excitement at that time, and I thought that, if Mr. Sumner did not go into the Senate for a day or two, the excitement might wear off.

Question, [by Mr. COBB.] It was not, then, on account of his physical condition?

Answer. Not at all. He was very anxious to go. He said that he had not lost a single day's session since the meeting of Congress. I objected to his going for the reason that I have stated, and not because I thought his condition would not admit of it.

Question, [by Mr. PENNINGTON.] Do you mean to say, as a medical man, that you would have recommended, or would have been willing to allow Mr. Sumner to go to the Senate on Friday in his condition?

Answer. I think he ought not to have gone on account of the excitement.

Question. I do not speak of that. Do you mean to say, as his physician, that you were not unwilling that he should go out on account of his wounds, and the consequences in which, from excitement and other causes, those wounds might end?

Answer. I think this: that Mr. Sumner might have taken a carriage and driven as far as Baltimore on the next day without any injury.

Question. Was it possible for him to have worn a hat?

Answer. I think he could have worn a hat.

Question. Now, I want to know whether you are willing to say, as a physician, that blows of the character received by Mr. Sumner indiscriminately upon his head were not such as possibly to produce instant death as a direct consequence?

Answer. I cannot say anything of the character of the blows, for I was not present.

Question. Do you know Mr. Brooks?

Answer. I do.

Question. With a person of Mr. Brooks's size and muscular power, I ask you whether you will say, as a physician, that he might, with a stick from one-half to five-eighths of an inch in diameter, deal indiscriminate blows with all his force on the head of Mr. Sumner, or any other adult, without extreme danger of producing instant death, or such wounds as would produce death?

Answer. It would depend upon the character of the stick. Mr. Brooks might have hit a larger man than Mr. Sumner, and killed him instantly. It would depend upon the blows. I know nothing of the blows that were inflicted.

Question. I am asking you hypothetically. Suppose such blows as

I have stated were inflicted indiscriminately upon the head ; could it have been done without danger of instant death ?

Answer. That would depend entirely upon the character of the stick.

Question. Then if the stick had the specific gravity of an ordinary hickory stick ?

Answer. These blows would not have killed Mr. Sumner.

Question. Then you say they might have been dealt about the head with impunity ?

Answer. No, sir ; not with impunity at the point where they were struck.

Question. I mean dealt about the head indiscriminately ?

Answer. They might have produced death.

Question. Were you accidentally called to attend Mr. Sumner ?

Answer. No, sir ; Mr. Jones said he was coming for me. I met him in a carriage, and he said he was on his way to my office. I was then coming down the avenue. I had not seen Mr. Sumner before that time. I have since called regularly.

Question. What are your political affinities ?

Answer. I am an old-line Whig—if I have any politics. I was born in the city of Washington.

Question. Were you bail for Mr. Brooks ?

Answer. I was not.

Question, (by Mr. COBB.) Are you a regular practicing physician of this city ; and if so, for how long have you practiced ?

Answer. I have been practicing since 1844. I have been connected with hospitals and medicine since 1833.

Question. I ask whether in your practice your treatment depends upon the political opinions of your patients ?

Answer. No, sir.

Question. Do you treat them with reference to their political opinions, or do you judge more by the pulse ?

Answer. I have nothing to do with any man's politics.

CORNELIUS BOYLE.

Nathan Darling sworn :

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made on Mr. Sumner, in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856 ?

Answer. I did not see Mr. Sumner until the *fracas* was over.

Question. State whether you assisted in dressing his wounds ?

Answer. I did. The first I knew of the affair, one of the pages of the House said a fight had been going on in the Senate. I ran over to see what it was. I was rather expecting something of the sort. When I arrived there, I found Mr. Sumner all covered with blood. The bystanders did not seem to understand much about it, or seemed frightened, and I went to work.

Question. State what experience you have had in this business of dressing wounds, if any.

Answer. One of the reasons for my going over was, that I have had a good deal to do with the operation of dressing wounds.

Question. In what capacity?

Answer. I was captain in the second regiment of the United States dragoons in the war with Mexico. I have been stationed for months without a doctor. I have dressed wounds, and could amputate a leg if necessary. I saw from the nature of Mr. Sumner's wounds that it was absolutely necessary to dress them on the spot, for the reason that it was evident there would have to be stitches put in; and if that has to be done, it is always better to do it at once. The wounds would heal quicker. I told them they had better send for a doctor, and see if his skull was not fractured. When the doctor came he said that it was not. He put three or four stitches into the wounds, and then they took Mr. Sumner home. I examined his head, and found two large wounds upon it, and one smaller one under his ear. His hands, his shoulders, and his back, were very much bruised. I had a bottle of arnica, which I keep for that purpose; and I stopped at my boarding-house, on my way up, to get it. The doctor came there and finished dressing the wounds. He put a bandage over the wounds, and put some arnica on them. I only say, that the same licks on an ordinary skull would have smashed right through. The doctor told me they would have smashed my head right through. The licks were fortunately on the thickest part of the crown.

Question. Did you see parts of the stick which were said to have been broken over his head?

Answer. Yes, sir; I saw a piece of it in the Senate.

Question. What was the character of the stick, and what was the character of the wounds you saw? Do you believe, that on other parts of the head, if the same blows had been inflicted, they would have produced death?

Answer. I believe, if the licks had been struck with half the force on another part of the head, they would have killed him instantly. If they had been inflicted lower down on the side of the head, I believe death would have been the result. I think there is no doubt of it. I have seen a soldier killed with the end of a raw-hide struck on the side of his head. He never breathed.

Question. Were there any wounds or bruises other than those you have mentioned?

Answer. There were three on the head—two large ones and a small one—just back of the ear. The large ones were cut right to the bone. The left hand had a black lump on it as large as a butter-nut. The right hand was hurt, though not so badly. Both his arms and shoulders were black. There was a black streak across his left arm and shoulders, and across both his thighs. The latter, I presume, was made in rising up from his table. The doctor told me that, if no man had seen the cut made on the right side of his head, he would have sworn it was not made with a stick at all. It was what we call a thrust cut, and was as ragged as if it had been made with a brick. The doctor and I talked about it, and he told me that he would have sworn before a court that it was done with a brick if nobody had seen it done. There was also a cut on the nose.

Question, (by Mr. PENNINGTON.) You say you saw pieces of this stick ; are you acquainted with sticks of that kind ?

Answer. I have never used one.

Question. What would be the weight of it as compared with a hickory or whalebone stick of the same size ?

Answer. I could not say. I have seen a stick which, it is said, is just like this one. This stick had a sword, or a place for one. I do not know that there was one in it ; but it was a stick made for a sword. I should think it was about one-quarter of an inch thick, or a little more, from the hollow to the outside. I did not examine it so as to state precisely.

Question. Do you know where there are any pieces of any considerable length ?

Answer. One of the Senate boys had a piece about four inches in length, but what was done with it I do not know.

Question, (by Mr. COBB.) Are you a surgeon ?

Answer. No, sir.

Question. Have you ever been ?

Answer. No, sir.

Question. Did you ever study for that purpose ?

Answer. No, sir ; all I know is from practice.

N. DARLING.

Hon. Warren Winslow sworn :

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner in the Senate chamber by Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856 ?

Answer. I know nothing about it at all except what occurred while I was in the Senate chamber. I was standing in conversation with friends. From where I stood Mr. Sumner was in my view. My attention was first directed by seeing Mr. Brooks address Mr. Sumner in what I supposed to be courteous language. I did not know then that he was a relative of Senator Butler ; but I was surprised to see a South Carolinian address Mr. Sumner in courteous language, and that attracted my attention. I heard Mr. Brooks say "Mr. Sumner," and Mr. Sumner reply, "Mr. Brooks." The remarks I did not understand. When Mr. Brooks struck Mr. Sumner he was half rising from his chair. He struck him some half dozen blows before Mr. Sumner rose up. Mr. Sumner was sitting just next the partition which separates the lobby from the bar. Mr. Brooks was before him, Mr. Sumner's desk between them. Mr. Sumner finally rose and moved about in a circle towards the right hand, so that at the close of the contest the position of the parties was directly reversed. Mr. Sumner appeared to be bewildered. I do not think he was stunned by the blow at the time, but he seemed to be warding off the blow with his left hand, and grasping at the stick with his right hand, until he had come around, I think, to the range of desks before him. When he had got around some distance he fell between two desks. I do not think he was knocked down. I should think Mr. Brooks struck him at least, thirty licks. He continued striking until the

stick was entirely broken. I think the first two or three blows broke the stick. Mr. Sumner said nothing but "Oh!" "Oh Lord!" or something like that. Mr. Brooks did not strike him after he was knocked down. Mr. Crittenden approached and said, "Don't strike him," "Don't kill him," or something of that sort; and Mr. Brooks said, "I do not intend to." I afterwards met Mr. Brooks, and walked down the Avenue with him, but the meeting was purely accidental.

Question, (by Mr. COBB.) I want to ask you about the length of time from the time Mr. Brooks commenced addressing Sumner, until the commencement of his assault?

Answer. It was very short.

Question. Was there sufficient time to have said coolly and deliberately what he is purported to have said?

Answer. I think there was time to have finished the remarks he is said to have made. I was struck with his manner. I thought it was a courteous address. I observed Mr. Brooks some time previous, sitting in a seat in the Senate. There were then ten or twenty ladies upon the floor. Mr. Sumner was upon his feet during, at least, two-thirds of the contest.

WARREN WINSLOW.

James W. Simonton sworn.

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner in the Senate chamber by the Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I was standing in the Senate chamber near Mr. Clayton's seat, conversing with Mr. Morgan and Mr. Murray of the House, when I heard a blow. I exclaimed, "What is that?" and immediately started. One step brought me in view of the parties. My attention was directed at once to Mr. Sumner, with a view to notice his condition. I saw that he was just in the act of springing forward. As he came upon his feet I noticed him spin around, and then stagger backwards and sideways until he fell. Mr. Brooks was striking him with his cane, which then seemed to be broken off one-third its length. I rushed up as rapidly as possible, with other gentlemen, and as I reached him, or near him, Mr. Keitt rushed in, running around Mr. Sumner and Mr. Brooks with his cane raised, crying "Let them alone! let them alone!" threatening myself and others who had rushed in to interfere. Mr. Brooks continued to strike until he was seized by Mr. Murray, and until Mr. Sumner, who had lodged partly against the desk, had fallen to the floor. He did not fall directly, but, after lodging for an instant upon, then slipped off from his desk, and fell upon the floor. I do not know of anything further.

Question. How often did Mr. Brooks strike?

Answer. With great rapidity; at least a dozen, and I should think twenty blows. Mr. Sumner, at the first moment when I looked at him, seemed to me to be unconscious.

Question, (by Mr. PENNINGTON.) Do you know of any concert between

Mr. Brooks and any other person, a member of Congress, to attack Mr. Sumner?

Answer. I do not know anything of my own knowledge. I noticed several persons who were there. I saw Mr. Keitt there. I have a distinct recollection of seeing several parties, perhaps not distinct enough to mention them. I saw several senators present immediately afterwards, but whether they were there at the time of the occurrence I could not say. My attention was directed especially to Mr. Sumner and to Mr. Keitt, who seemed to be acting in concert with Mr. Brooks.

Question. Do you know of any person or persons who knew that the attack was contemplated?

Answer. Not to my own knowledge. I have heard it stated that Captain Mariott and E. C. Coleman were so informed. I believe Mr. Coleman is the correspondent of the San Francisco Globe. It is, perhaps, but justice to an officer of the Senate, Mr. Holland, to say that he interfered with a great deal of energy, just as the collision ended. Mr. Holland rushed in and exclaimed, "I am an officer of the Senate," raised his hand, and commanded Keitt and Brooks to stop.

Question. Where was Mr. Keitt when Holland directed him to desist?

Answer. He and Mr. Brooks were both just about where Mr. Sumner's desk ordinarily stands. His desk was overturned.

Question. State, if you can, what Mr. Keitt said or did from first to last?

Answer. I saw him as I was approaching the parties. I noticed him run in from the centre aisle, and raise his cane. He used the words I have spoken; or rather my impression is that the precise expression was, "Let them alone, God damn you."

Question. From what part of the Senate chamber did Mr. Keitt come?

Answer. I suppose he came from towards the Clerk's desk, from the road by which I saw him approach.

Question. Did he strike any blow?

Answer. I saw him strike no blow. He had his cane flourishing over his head.

Question. Was that the effect of excitement, or of a blow aimed at somebody?

Answer. I could not say that it was aimed at anybody. It might have been from excitement. He brandished his cane as I have described, and almost completed a circle around Mr. Sumner and Mr. Brooks.

JAMES W. SIMONTON.

Hon. Henry A. Edmundson sworn:

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made upon Mr. Sumner, in the Senate chamber, by the Hon. Mr. Brooks, of South Carolina, on the 22d of May, 1856? and state anything you may have heard Mr. Brooks say in relation thereto, previous to said assault.

Answer. I was not present when the alleged assault was made.

The first intimation I had that Mr. Brooks had taken any offence at what Mr. Sumner said, was on going into the Senate chamber on the second day of the speech, when I heard a gentleman say that Mr. Brooks had taken exceptions to remarks made by Mr. Sumner, the day before, in relation to Judge Butler, and of the State of South Carolina. The morning after Mr. Sumner closed his speech, while on my way to the House with some other gentlemen, I met Mr. Brooks at the foot of the first flight of steps approaching the Capitol. I accosted him, saying, "You are going the wrong way for the discharge of your duties." He asked me to walk with him. I did so. He then told me Mr. Sumner had been very insulting to his State, and that he had determined to punish him, unless he made an ample apology. We took a seat in the Capitol grounds, near the walk leading from the Avenue to the Capitol. He said to me, "I wish you merely to be present, and if a difficulty should occur, to take no part in it. Sumner may have friends with him, and I want a friend of mine to be with me to do me justice." I asked him what was his purpose? He replied it was to call upon Mr. Sumner for the insulting language used towards his State; and if he did not apologize, to punish him.

Question. About what time was this?

Answer. I met Mr. Brooks about ten minutes before the time for the meeting of the House on Wednesday morning. I remember to have heard Mr. Brooks say it was time for southern men to stop this coarse abuse used by the Abolitionists against the southern people and States, and that he should not feel that he was representing his State properly if he permitted such things to be said; that he learned Mr. Sumner intended to do this thing days before he made his speech; that he did it deliberately, and he thought he ought to punish him for it. That is all that occurs to my mind that has any relevancy to this matter. The next morning, when coming to the Capitol, about the time for the House to meet, I saw Mr. Brooks sitting in the gatehouse of the Capitol grounds at the entrance from Pennsylvania avenue, alone. I supposed what his object was, and stopped in. I said, You are looking out. He said he was desirous of seeing Mr. Sumner; that he could not overlook the insult; that he had scarcely slept any the night before, thinking of it; and that it ought to be promptly resented. We sat there only a few moments, during which time I learned that his purpose was to meet Mr. Sumner before he got into the Senate chamber; that he could see from that position whither he should walk or ride; if he should be in a carriage, he (Mr. Brooks) intended to pass through the grounds and Capitol and meet him before he reached the Senate chamber. I stated to him, that would be an imprudent course; that I had no doubt Mr. Sumner was physically a stronger man than himself, and the exertion and fatigue of passing up so many flights of steps would render him unable to contend with Mr. Sumner, should a personal conflict take place. We walked then to the Capitol; our conversation, as we passed on, was in relation to other matters. When we arrived at the door entering into the rotundo he remarked that he was going into the Senate chamber, and went in that direction. I went into the House, where I found Mr. Lindley, of Missouri, was announcing the death of his colleague, Mr.

Miller ; he was followed by Mr. Marshall, of Kentucky, after which the House adjourned.

I then walked over to the Senate, and saw Mr. Brooks standing in the lobby on the opposite side of the main aisle from where Mr. Sumner was sitting. I seated myself, and heard Mr. Geyer announce the death of Mr. Miller in the Senate. The Senate then adjourned. When I noticed Mr. Brooks again he was occupying a seat in the Senate chamber. As I was passing near him, I asked him if he was a senator ? He then said to me he would stand this thing no longer ; he would send to Mr. Sumner to retire from the chamber. He then got up, and went into the vestibule outside of the chamber with that view. I followed him, and said, that if he sent such a message, Mr. Sumner would probably send for him to come into the Senate chamber. He seemed to be busy at his desk directing documents, as I supposed ; and he would effect nothing by this, he having previously said he did not desire to have an interview with Mr. Sumner while ladies were present, and I knew there still remained a lady occupying a seat in the lobby not far from where Mr. Sumner was sitting. This is all the conversation that I now remember to have had with Mr. Brooks that had any relevancy to this matter. We then stepped back into the Senate chamber. I immediately passed on through another door, near which I met a friend, (Senator Johnson,) to whom I propounded the question, if there would be any impropriety, should an altercation occur between Mr. Brooks and Mr. Sumner, of its taking place in the Senate chamber, the Senate having adjourned at the time ? My recollection is, that I suggested, in the said conversation, there seemed to me no impropriety in calling on Mr. Sumner in the Senate, it having adjourned some time before, and there being few persons present ; the insult was given there, and that might be looked upon as the proper place to resent it ; and further, that should a collision follow, both parties might prefer it to take place where it would be more private than it would probably be outside of the Capitol. Here the conversation terminated ; and, as I turned away from this gentleman, heard a noise in the Senate chamber, with exclamations of " Oh ! oh ! " I went back as quickly as I could ; but when I got into the Senate chamber the whole difficulty was over. I found Mr. Sumner in a reclining position, Mr. Morgan holding him by the arm, saying that he was very badly hurt, and that a physician must be procured. There was some conversation between Mr. Brooks and Mr. Crittenden. In a short time it was suggested that Mr. Sumner had better go into the ante-room, and he was carried out in a leaning position.

I saw three pieces broken off the small end of the cane. My attention was called to them, by Mr. Brooks requesting me to procure the head of his cane. My recollection is that he said it was presented to him by some one from Philadelphia. I got a portion of the stick and gave it to Mr. Glossbrenner, Sergeant-at-Arms of the House, and have not seen it since.

Question. Do you know of any arrangement made by Mr. Brooks with any other member ?

Answer. I do not think there was any such arrangement ; for, on the day of the first conversation referred to, between Mr. Brooks and

myself, I referred to a conversation I had with another gentleman in reference to the view he (Mr. Brooks) took of Mr. Sumner's speech, when he replied, Then you have mentioned this matter to some one else? saying, at the same time, that he himself had mentioned it to no one else. I heard, in going into the Senate chamber whilst Mr. Sumner was speaking the second day, that he had expressed some dissatisfaction with Mr. Sumner's course the first day of his speech. He repeated to me the words Sumner had used in relation to his State, in our first conversation. I think the language he repeated that Mr. Sumner had used towards South Carolina was: "Disgracefully impotent during the Revolution, and rendered still more so since on account of slavery."

Question, (by Mr. COBB.) The language used in his reported speech is, "shamefully imbecile?"

Answer. I think the words repeated to me by Mr. Brooks were not exactly those in his speech. I have stated that Mr. Brooks did not call on me with the view of my taking any part in the matter. His design was, that I should know exactly what was done on the occasion. That, he stated at the time, was his main purpose in calling on me.

Question. Your meeting with Mr. Brooks the morning before this occurrence was accidental?

Answer. It was.

Question. When Mr. Brooks requested you to be present, I ask you whether or not he was very explicit in stating that it was not with the view of your taking any part in the transaction, but simply that you should be present as a witness of what occurred?

Answer. That was all. He said to me, "I want you to take no part in this thing." I mentioned the fact that it had been rumored by Senator Sumner's friends that he had armed himself in anticipation of an attack, and asked Mr. Brooks what preparation he had made; for I had nothing but a little brier stick. He replied: "I have nothing but my cane."

Question. Do you know of his having any other weapon?

Answer. I do not.

Question, (by Mr. PENNINGTON.) Was the morning on which Mr. Brooks first informed you of his purpose in regard to Mr. Sumner the day before the assault?

Answer. It was.

Question. Was that the first intimation you had of his purpose?

Answer. It was the first direct intimation. I learned in the Senate chamber, the day Mr. Sumner closed his speech, that Mr. Brooks had taken offence at what had been said the day before.

Question. Did you know of his intention to punish him then?

Answer. I did not. The first word he said to me on the subject, was on the morning after Mr. Sumner had closed his speech. I think this was on Wednesday, and that he closed his speech on Tuesday. The affair took place on Thursday.

Question. Then the first time he announced his fixed determination to you, was on the morning previous to the assault?

Answer. That was the first time I heard from Mr. Brooks on the subject. As I have stated, I heard Senator Hunter state, the day

before, that Mr. Brooks had complained of language used on the first day of the speech. I heard but very little of Mr. Sumner's speech, but I heard some strong language, and remarked at the time that it was strong language. It was said that he had been particularly severe the day before upon Judge Butler, and that Mr. Brooks had complained of it.

Question. When you reached the scene of the transaction, you say that Mr. Sumner was already in the arms of Mr. Morgan?

Answer. Mr. Morgan had hold of him. I think he had him by the arm. They were about removing him when I arrived in the Senate chamber.

Question. Then you were not anticipating an immediate assault?

Answer. I did not anticipate an immediate assault, because when I left the chamber there was a lady in the chamber, and Mr. Brooks had said that he would have nothing to do with the matter in the presence of ladies. He had expressed a desire to see Mr. Sumner outside the Hall.

Question. Did he intimate or express a wish that you remain until the transaction was over?

Answer. He did not at that time. The only time when he expressed any wish to me upon the subject, was the day before, when we were sitting on the seat I have mentioned in the Capitol grounds.

Question. When was it that you asked him as to his preparation?

Answer. It was on Wednesday morning, the day before the occurrence.

Question. How long did you remain waiting for Mr. Sumner on that morning?

Answer. I suppose about fifteen minutes. I could not state precisely as to the time; the second morning but a very few minutes.

Question. Were you with Mr. Brooks in the Senate chamber on that morning?

Answer. We parted at the rotundo of the Capitol. He remarked that he was going into the Senate chamber. I went into the House.

Question. Did you accompany Mr. Brooks to the Capitol on Thursday morning?

Answer. Yes, sir; I met him at the gate-house at the foot of the Capitol grounds, a few minutes before or a few minutes after the time of the meeting of the House—I cannot speak precisely as to the time. The meeting was casual altogether.

Question. Then Mr. Brooks said nothing to you of his purpose in going into the Senate chamber on that morning?

Answer. He said nothing in the world about what his purpose was in going to the Senate. I do not think—if there was, I do not recollect it—that there was any reference made to the matter in walking from the gate-house to the Capitol. We were in conversation about some other matter when we arrived at the rotundo.

Question. Then he gave no intimation as to when he intended to carry out his purpose?

Answer. None whatever.

Question. Your subsequent meeting in the Senate was also casual?

Answer. It was. After the adjournment of the House, I walked

over to the Senate to hear the eulogies on Mr. Miller. Mr. Miller was an acquaintance of mine, with whom I had been associated in the House for a considerable time; and I went to the Senate to hear the eulogies on him.

Question. (by Mr. PENNINGTON.) Did you know whether or not Mr. Keitt knew of Mr. Brooks's purpose to punish Mr. Sumner before the transaction; and if he did, how long before; and what did he say to you about it?

Answer. Mr. Keitt and myself never had any conversation upon the subject, and I know nothing in reference to his having any knowledge of Mr. Brooks's intentions, except an inference that might be drawn from a single remark. On the day the occurrence took place, I proposed to Mr. Keitt that we should go down street, and he said No, I cannot leave till Brooks does.

Question. Where did that conversation occur?

Answer. I do not know that I can specify the precise location where it did occur. My recollection is that it occurred in the small rotundo behind the main rotundo and the vestibule of the Senate. That is as near as I can recollect.

Question. How long was this before the transaction occurred?

Answer. I am not certain; but my impression is, that it was between the adjournment of the Senate and the time when the occurrence took place.

Question. Did you see Mr. Keitt, or have any conversation with him in the Senate chamber?

Answer. I had no conversation with him, other than that to which I have referred. I do not now recollect, and could not state, whether I saw him after that conversation or not.

Question. Did he request you to wait?

Answer. He did not.

Question. State if, when you left the Senate chamber last, before the occurrence took place, you were preparing to leave the Capitol, or whether you were waiting to witness an interview between Mr. Sumner and Mr. Brooks?

Answer. I did not remain at the Capitol with any definite view of witnessing an interview between Mr. Sumner and Mr. Brooks, yet my impression was that an interview would take place; and that, perhaps, influenced me in remaining longer in and near the Senate chamber than I otherwise should have done. But I felt no obligation to remain from anything that had passed between me and any other person, and should not have hesitated to leave there had there been any reason influencing me to do so.

HENRY A. EDMUNDSON.

Richard Sutton sworn :

Question. (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made on Mr. Sumner in the Senate chamber by Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. On Thursday, the 22d of May instant, the Senate adjourned at fifteen minutes to 1 o'clock, in respect to the memory of Mr. Miller,

of Missouri, whose death had been announced. Several senators remained in their seats. Mr. Sumner was in his seat engaged in writing, and occasionally in conversation with visitors. About a quarter past 1 o'clock I heard a sharp crack, and, on looking in the direction of the sound, I saw a stranger rapidly striking Mr. Sumner on the head with a cane. Mr. Holland, the assistant Sergeant-at-arms, ran to that portion of the Senate chamber, and as an officer of the Senate called for the preservation of peace. Mr. Keitt, a member of the House of Representatives, rushed with a shout towards Mr. Holland, brandishing a cane around his head, with the evident purpose to prevent any interference. The stranger, who I subsequently learned was Mr. Brooks, a member of the House of Representatives, continued to beat Mr. Sumner with his cane until it broke, and the beating was continued with the pieces. Mr. Sumner struggled, and desks and chairs were overthrown, but Mr. Sumner did not strike his assailant. At length (Mr. Brooks being then near the front door, with gentlemen who interposed) Mr. Sumner staggered from the platform on which his desk was placed and sank exhausted to the floor, bleeding profusely.

RICHARD SUTTON.

The committee then adjourned until to-morrow, at 11 o'clock a. m.

WEDNESDAY, *May* 28, 1856.

The committee met pursuant to adjournment, at 11 o'clock a m.

Present—all the members of the committee.

Dunning R. McNair sworn.

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been made on Mr. Sumner, in the Senate chamber, by Hon. Mr. Brooks, on Thursday, the 22d day of May, 1856?

Answer. I left the Senate chamber from five to ten minutes after the Senate adjourned, and did not return for twenty or thirty minutes, probably; the affair was then all over. I went into the reception room of the Senate, where Mr. Sumner was. A number of gentlemen and Dr. Boyle were present—Mr. Campbell among the rest. I found that a number of his friends were with him. I directed one of the pages of the Senate to stand at the door leading into the reception-room from the Senate chamber, to prevent intrusion. That is all I know in relation to the matter. I was not aware, before the occurrence took place, nor at any time, of any intention to commit the assault. I never had any conversation with any person, and never heard anything, in relation to the matter.

Question, (by Mr. PENNINGTON.) Do you know anything as to the character of the wounds?

Answer. I know nothing at all about them. I was absent the whole time.

Question, (by Mr. COBB.) Was the desk at which Mr. Sumner usually

sits in the Senate, and at which he was sitting when this occurrence took place, raised higher than the other desks around it?

Answer. His seat in the Senate is raised higher than those adjoining.

Question. How much was it raised?

Answer. I suppose two inches, or perhaps two and a half inches.

Question. Would the fact of the raising of the seat give more room, so as to make rising up from it less difficult than if it were lower?

Answer. That would be my impression. From Mr. Sumner's being rather long in the legs, the seat, I presume, was raised to make it more comfortable. I do not know that fact, however. The desk was raised by blocks of wood under the legs. I sat down in the seat myself since this occurrence took place. I think Mr. Sumner and I are about the same height. As I sat there was something like three inches between my legs and the bottom of the desk. He could not have risen instantly without difficulty, but with the slightest effort—the chair being set on rollers—he could have pushed himself back.

Question (by Mr. PENNINGTON.) State how that desk in particular was attached to the floor?

Answer. The blocks were screwed to the floor. Underneath the feet of the desk there was a plate of iron extending over the feet, and all was screwed down to the floor. Sometimes the screws are pretty large, and sometimes they are not so permanent.

Question. How many desks were overturned?

Answer. When I came into the Senate there were two. If there had been others, they had been lifted up. I recollect lifting these two up myself.

Question. Whose desks were they?

Answer. Mr. Sumner's was one of them. The other was Mr. Collamer's. Mr. Collamer's is in front of Mr. Wilson's, and diagonally in front of Mr. Sumner's on the main aisle.

Question. How much is the platform on which the desk of Mr. Sumner was placed above those in front?

Answer. I think about six inches. It was an ordinary step.

Question. I should like to ask whether a man of the size of Mr. Sumner could rise from his desk without moving back?

Answer. He probably could not rise directly without inconvenience. I should think he could not get up without moving; but with the least effort his chair, being set on rollers, would go back.

DUNNING R. McNAIR.

James C. Marriott sworn :

Question, (by Mr. CAMPBELL.) Do you know anything of the facts connected with the assault alleged to have been committed on Mr. Sumner in the Senate chamber by Mr. Brooks, on the 22d instant?

Answer. I know nothing in the world. I was not present. I was in bed reading Mr. Sumner's speech at the time the difficulty occurred.

Question. Did you hear any threat made?

Answer. I did not.

Question. Did you know of any intention on the part of anybody to assault him?

Answer. No, sir; I did not.

Question. You were not informed by any person, in any way, that there was to be an attack?

Answer. I was not. I heard the matter discussed by some gentlemen after the occurrence, but no threats made before.

Question. (by Mr. PENNINGTON.) You say you heard the matter discussed by some gentlemen. Who were they?

Answer. I heard Mr. Barksdale speak of it. I heard Mr. Edmundson speak of it. I heard Mr. Pelton speak of it. I heard Dr. Chaffee speak of it. I have heard it discussed by a great many persons.

Question. Have you heard it discussed in the presence of Mr. Brooks?

Answer. I have heard remarks made in the presence of Mr. Brooks.

Question. Who were present at the time?

Answer. It would be impossible to say. I have heard the matter discussed by a great many persons from time to time. I was informed in my room by the servant that Mr. Brooks had caned somebody. I came down to ask who it was. I met Mr. Barksdale, and he informed me that it was Mr. Sumner.

Question. Have you not stated that you were present with Mr. Brooks and others when it was arranged there should be an attack upon Mr. Sumner? Do you know anything of that attack?

Answer. No, sir. I did state, on one occasion, that I heard some gentleman had stated that Judge Butler would have to reply to Mr. Sumner; that another gentleman had stated somebody ought to reply with a stick, or something to that effect; and that Colonel Brooks had remarked, that must not be done.

Question. Was Colonel Brooks present when that statement was made?

Answer. No, sir. I will state that, on the evening after this occurrence took place, several gentlemen accosted me and remarked that it was an outrage, or something to that effect. I replied that they ought not to come to me with complaints, but go to Colonel Brooks, who held himself responsible to all. I did not think that they had a right to come to one of Colonel Brooks's nearest friends with such remarks. I took it up, however, and some difficulty occurred between Dr. Chaffee and myself, growing out of this remark.

JAMES C. MARRIOTT.

Hon. James Buffinton sworn:

Question. (by Mr. CAMPBELL.) Do you know any of the facts connected with the assault alleged to have been committed upon Mr. Sumner, in the Senate chamber, by Hon. Mr. Brooks, of South Carolina, on Thursday, May 22, 1856?

Answer. I have no knowledge of the assault whatever.

Question. Do you know anything of threats made by Mr. Brooks, or any other person?

Answer. No threats. I heard a member in the House, a day before this transaction occurred, say that Mr. Sumner ought to be knocked down, and his face jumped into. I cannot say that was the precise language, but I think it was as strong as that.

Question. What member was that?

Answer. I did not know the member. I inquired who he was, and

was told that it was Mr. Rivers. Colonel Orr was sitting at his side at the time. This was the day before the difficulty occurred. I saw Mr. Sumner in the ante-room of the Senate before his wounds were dressed. I saw the doctor dress his wounds.

Question. Describe the character of the wounds; and if Dr. Boyle made any remarks in regard to them, state what they were.

Answer. There was nothing said in the ante-room of the Senate that I think would have any bearing upon the case. My own recollection is, that I did not speak while in the room. When I went there, Captain Darling, and, I believe, Mr. Morgan, of New York, and the doctor were there; perhaps the doctor came in a few minutes after I got there. I went home with Mr. Sumner, and saw his head dressed. I got him a clean shirt, and helped to put it on. The doctor ordered all from the room except myself, and said that such was the condition of Mr. Sumner it was absolutely necessary that he should be kept quiet, for he could not tell the extent of the injuries at that time. My own impression is, that I saw Dr. Boyle there on every morning up to Saturday morning. On Saturday morning I was there before the doctor. The question was raised whether Mr. Sumner was able to go to the court to answer the subpoena. I said to Mr. Sumner I should not think it advisable to go, but we would wait until the physician came in. His physician remarked, when he came in, he thought Mr. Sumner could go. I recollect very well saying to Dr. Boyle, that as strong as I was myself, I could not go there without being more or less excited, and, of course, if I could not go without being excited, it would be impossible for Mr. Sumner to go without excitement. The doctor agreed with me. I said I did not want Mr. Sumner to refuse to go to court, unless the doctor would say he did not think it best. He agreed with me, and said he would state to the court he did not think it prudent for Mr. Sumner to appear that day.

Question, (by Mr. PENNINGTON.) Did you hear Dr. Boyle say anything about the character of the wounds, and the hazard of life?

Answer. I have already stated, that he said he could not tell the extent of the injuries. The only danger he feared was, that erysipelas would set in in consequence of fever, and he wanted Mr. Sumner to keep perfectly quiet. He also remarked, that they were the worst wounds of the kind he had ever seen. He said, that if he had not known the fact, he would have sworn that they were not inflicted with a cane; he should have supposed that they were inflicted with a brick, or something of that kind.

Question. Did he say anything of what would have been the effect of such a blow on other persons?

Answer. He remarked to Mr. Thayer, who was in the opposite room, that such a blow inflicted on a weak man would have stunned him; he would not have been able to rise after the first blow; but that Mr. Sumner having so much vigor, being in so good health, and such a strong man, was better able to withstand them, but he was paralyzed from the effects of the first blow. He remarked, that such a person as Mr. Sumner or himself, or myself, might have been able to rise from such a blow, but that a weak man would not have been. At the time of this occurrence I did not think of being called before

the committee, and did not charge my mind with what occurred, but the facts I have stated I remember distinctly. As I have referred to Mr. Rivers, I ought, perhaps, in justice to all the parties, to state all the facts in reference to the conversation. Mr. Ricard, of Maryland, was present, and stated, emphatically, that such a thing could not be countenanced, and ought to be put down. I merely state this in justice to Mr. Rivers.

JAMES BUFFINTON.

Dr. M. S. Perry sworn :

Question, (by Mr. CAMPBELL.) Are you a physician ?

Answer. Yes, sir.

Question. Of how many years' practice ?

Answer. Twenty-five.

Question. Do you know anything with regard to this assault ? Did you witness it ?

Answer. No, sir ; I did not see Mr. Sumner until Sunday. I arrived in the city Saturday evening ; saw him Sunday morning.

Question. Did you examine his wounds ?

Answer. Yes, sir.

Question. State, if you please, the character of his wounds, and the number.

Answer. I did not examine them very critically. I did examine the wounds upon the back of his head. There were two cuts upon the back part ; one upon the right of the median line, and one upon the left ; the one upon the left was about two inches in length. Apparently, at the time, they were doing very well ; I did not disturb them. Upon the right side of the head was a pulpy feeling, which I disliked. The wound upon the left side had healed, or nearly so, when I first saw it ; in the one on the right side there was perhaps an inch, or three quarters of an inch, which had not adhered. He had some bruises about him—one upon the left hand, where the blood had settled under the skin ; he also has a slight one upon the right hand. These were the only bruises I saw. I did not examine his body.

Question. Did you regard those wounds as endangering the life of Mr. Sumner ?

Answer. I did not suppose, at the time, they would endanger his life, and I do not think now there is much danger. Up to yesterday he appeared very comfortable. Still, his nervous system has received such a shock that I told him he should be very careful, or reaction would come on. I did not consider, and I so told him, that he had then come to the crisis. Yesterday afternoon I saw him. He then had a very hot skin—was in a very excitable condition. His pulse was over ninety—quite full ; a very different state of things from what he had had before. I told him then that reaction was coming on, and that he would be able to find out something by to-day. Last night he had a very uncomfortable night—great pain in the back of his head, especially. The glands on the back of his neck were beginning to swell. He was quite feverish through the night. This morning he sent for me, and I met his physician. I did not consider myself

as his physician, and therefore did not prescribe. I met his physician: we saw that suppuration had taken place in the wound on the right side of his head. The wound had nearly closed over. The physician had the night before applied collodion, which prevented the escape of pus. His head was hot; his pulse one hundred and four. He was very nervous and excited. We opened the wound, and there was about a table-spoonful of pus discharged, which had gathered under the scalp. Of course he was very much relieved from the extreme suffering he had had during the night. What the result of this state of things will be it is impossible for me to say; but I think he is not out of danger. I think now the case is at the critical period.

Question. Was there any fever before yesterday?

Answer. Not when I have seen him. My own impression was that fever would not ensue if he could be kept perfectly quiet; but his nervous system had received such a shock from excitement and from the wounds, that he was in a critical condition. There had been up to this time very little reaction, but now he is beginning to feel the result of it. His whole system is in a state of excitement.

Question. State whether you regard the treatment of his physician as proper?

[Mr. CAMPBELL here stated that he asked this question at Dr. Boyle's request.]

Answer. I have not seen anything that was not perfectly proper. I think the fever now is the result of local inflammation. The collodion closed over the wound, and prevented any discharge of pus. I have seen nothing myself which I do not regard perfectly professional. I had not seen Dr. Boyle until this morning. I did not consider the case as one in which I was called upon to interfere professionally. I was here merely as a personal friend of Mr. Sumner, and did not come as his physician. When I met Dr. Boyle this morning, and heard his reasons for acting, I came to the conclusion that everything in the management of the case was entirely professional.

Question. State whether wounds, such as you saw upon Mr. Sumner's head, made with a stick three-quarters of an inch in diameter, the ordinary length of a walking-stick, would be calculated to produce death?

Answer. Any blow received upon the head with a stick of this kind, which would produce insensibility, is always productive of danger.

Question. Give your opinion as to what would have probably been the result had his wounds from these blows been inflicted lower down upon the side of the head, instead of the back?

Answer. If the blows received had been inflicted upon any portion of the head where the bone is thinner, of course the danger would have been increased. Any blow received upon any part of the head with sufficient force to cut through the scalp down to the bone, I must say would be attended with a great deal of danger to life, not only by producing concussion of the brain, but erysipelas might be very likely to follow from the external. I think that is the danger now. Erysipelas very often causes death, but perhaps it will not result in that way in this case. Perhaps it may result favorably.

Question, (by Mr. PENNINGTON.) From the first moment you saw

Mr. Sumner, has he been in a condition that you, as his physician, would recommend him to go out?

Answer. He has been in that condition that I told him, and told his brother, it would not be safe to go through the excitement of any exposure of any kind. I consider it very important that he should be kept quiet.

Question. From your knowledge of the wounds inflicted, has there been any time when it would have been prudent and proper for him to leave his lodgings?

Answer. No, sir.

Question. Would not the danger of doing so be imminent in his critical condition?

Answer. I think so. That is the opinion I have given to him from the time I first saw him.

Question. With a cane of the specific gravity of this stick, (producing a hickory cane,) would blows indiscriminately dealt about the head of a person be safe against death?

Answer. Such blows would certainly endanger the life of the subject.

Question. At what time did you first see these wounds?

Answer. Sunday morning.

M. S. PERRY.

Dr. Cornelius Boyle recalled:

Question, (by Mr. CAMPBELL.) Has there been any change in the condition of Mr. Sumner since you testified before the committee yesterday?

Answer. Yes, sir. I was called this morning, at about half-past nine o'clock, to meet Dr. Perry in consultation. This is the first time I have met any medical gentleman there. When I visited Mr. Sumner I found him excited and feverish, his pulse about a hundred; at one time it was a hundred and three, and at another ninety-eight, so that it would average about a hundred. It was caused, in my opinion, by the closing of the wound by the application of liquid cuticle, (a solution of gun cotton and chloroform,) which I applied to the wound yesterday. It closed up the wound, and prevented the flowing of the pus, which, of course, caused him to be excited and restless. I opened the wound this morning, and he was immediately relieved; and he has felt a good deal better ever since. I am poulticing it now. We have given him no medicine up to to-day, with the exception of Congress water. We have to-day ordered five grains of Dover's powders every three hours, just to allay the excitement.

CORNELIUS BOYLE.

Hon. Alfred Iverson sworn:

Question, (by Mr. CAMPBELL.) What do you know of the facts connected with the assault alleged to have been committed on Mr. Sumner in the Senate chamber by the Hon. Mr. Brooks, of South Carolina, on 22d May, 1856?

Answer. After the adjournment of the Senate, I remained in my seat, just at the right of the Vice President's chair, the second seat

nearest to the area from the Vice President's chair. I remained there reading some communications, when I heard a blow, which I suppose was the first blow that was struck. I heard a scuffle, and some disturbance, perhaps the overturning of Mr. Sumner's desk, which I afterwards saw was overturned. I rose up and looked on from that time until the end of the difficulty. I think I saw the whole of the balance of it. I remained at my seat until just at the close of it. I did not move from my seat, but looked on tolerably deliberately. After I heard the first blow and the scuffle, I looked up and saw what I suppose to have been the second blow. Then Mr. Sumner and Mr. Brooks were both standing erect. Mr. Brooks was striking, and Mr. Sumner, as I thought, was striving to grasp Mr. Brooks. The second blow, or the first I saw, struck him over the head. The contest was carried on; at one moment Mr. Sumner seemed to be pressing towards Mr. Brooks as if to grasp him; then Mr. Brooks would recede backward, and strike him over the head. At another moment, Mr. Sumner would change his position, and seem to be attempting to dodge the blows, or bending down somewhat sideways. Then Mr. Brooks would strike him again; then Mr. Sumner would seem to throw up his hands as if to ward off the blows, and kept moving gradually down towards the aisle. His position was changed several times, until at the conclusion Mr. Sumner got fully into the middle of the aisle. Finally, both of them got into the aisle leading from the Vice President's chair to the main entrance, and near the door. The last blow struck by Mr. Brooks was over the head, and the stick splintered. Immediately after that, some one seized Mr. Sumner by the lappel of his coat. I thought at the time that it was Mr. Brooks, but would not be certain that it was Mr. Brooks; somebody did, and jerked him backwards, and he fell on his stern, leaning with his head and shoulders up against the legs of a desk. I thought that it was Mr. Brooks who took him by the lappel of his coat, but it may have been some other person; I am not certain; the motion seemed as if it was intended to jerk him down, or pull him away from the spot he then occupied. I distinctly saw the seizure, and the pull or jerk; but, as the back of the person was towards me, and I was looking at Mr. Sumner, I could not be certain as to the person who did it. I went up immediately, and saw Mr. Sumner lying in a recumbent posture. I also saw Mr. Brooks standing near; that he was hurt over his eye, and asked him how it happened? He said it was from the recoil of his stick. Mr. Sumner was lying down, and uttering groans of distress, but was soon taken up and carried through the area into the ante-room of the Senate; afterwards I did not see him. These are the material facts. There was no blow struck after Mr. Sumner was prostrated. He was jerked down on the floor by a violent effort, either by Mr. Brooks or somebody else. It may have been some of his friends who took hold of him in the effort to draw him back. I am confident that his fall, or sinking down to the ground, was the immediate effect of that force exercised upon him.

Question, (by Mr. CAMPBELL.) Did you see any other person present?

Answer. I recollect observing Mr. Foster, the senator from Connecticut. I saw him rush up just as I got into the aisle, and, as I

thought, attempting to interfere. He was endeavoring to run up and seize upon Mr. Brooks or Mr. Sumner ; I do not know which. He was evidently endeavoring to interfere to stop the combatants. I remember seeing his countenance distinctly, and do not recollect recognising anybody else at that moment. After the fight was over, I went up close to where Mr. Sumner was—there was a considerable crowd. I looked around and saw several whom I recognised. I saw Mr. Crittenden. I also saw my colleague, Mr. Toombs. I saw Mr. Brooks standing near the aisle among the senators' desks, about where the contest commenced. I went up to him and asked him how the wound over his eye occurred, and he stated it was the recoil of his own stick, perhaps at the time it broke.

Question. Did you see Mr. Keitt?

Answer. I did not see Mr. Keitt ; at least I do not recollect having seen him. I met a number of gentlemen, whom I recognised in the aisle and in the crowd, after Mr. Sumner was down, and before he was taken up ; I do not know the number. They seemed to be standing round to ascertain what had occurred ; but no one was then taking any part in the transaction.

Question. Can you name those who were there at the time of the assault?

Answer. I cannot name any except Mr. Foster. I think he was sitting in his seat. I think that perhaps my colleague, Mr. Toombs, was also in his seat ; but I cannot state positively. I do not know that I saw him until afterwards. I was very busily engaged when the occurrence took place. I had just returned from Georgia, and was reading my papers and letters. I heard the first blow very distinctly. I looked up and saw Mr. Brooks and Mr. Sumner both standing erect upon their feet, and the scuffle going on. Mr. Brooks, I think, acted with a great deal of deliberation. When Mr. Sumner would attempt to reach him, he would recede, and at the same time strike over his arms and at his head. I think there were some five or six blows in all that I saw. The blows did not come very fast. There may have been more than that, but my impression is there were not. The last blow was struck over the head in the aisle. No blow was struck after Mr. Sumner was down. The last blow struck was the one by which the stick was broken. I saw that, and am positive of it. I saw the fragments fly about ; and they were afterwards picked up by the pages, and one of them brought to me, which I examined.

Question, (by Mr. PENNINGTON.) Did you see Mr. Sumner strike any blow?

Answer. I do not think I saw him strike any blow. His efforts seemed to me to be very confused, as if he did not know exactly how to defend himself, but was trying to ward off the blows.

Question. Were not his efforts rather of a convulsive character than otherwise?

Answer. I cannot say that it so struck me ; he was making great exertions to defend himself to prevent the infliction of the blows.

ALFRED IVERSON.

James Y. Davis sworn :

Question, (by Mr. PENNINGTON.) Have you tested the comparative weight of gutta percha, hickory, and whalebone canes, of the same size?

Answer. I have.

Question. Which did you find to be the heaviest?

Answer. The whalebone and hickory canes were about of the same weight, and heavier than the gutta percha one. The whalebone and hickory weighed each eleven and a half ounces ; the gutta percha eleven ounces. They were all of about the same size ; the gutta percha cane was perhaps a little the shortest. If they had been all of the same length, the gutta percha cane would have been as heavy as either of the other two.

Question. Had the gutta percha cane you weighed anything like a hook, as you see on the one I show you?

Answer. No, sir ; it had merely a straight piece projecting out ; it was not curved like this.

Question. Which was the shortest of the three sticks?

Answer. The gutta percha was the shortest.

Question. From your knowledge thus derived, which material is of the heaviest comparative specific gravity?

Answer. I should not think that in the three canes there would have been any difference if they had been precisely of the same size ; as regards the gutta percha cane, I think, as I have already stated, that it would have been as heavy as either of the others if it had been as long.

Question. How were they as to pliability?

Answer. The hickory was the stiffest of the three ; the other two were about the same as to elasticity.

Question. How about their hardness?

Answer. I think the hickory cane would be the toughest ; the whalebone and the gutta percha canes are liable to snap or break.

Question. I mean which is hardest as to its capability of indentation?

Answer. I do not know.

Question. Was the gutta percha cane you experimented with hollow?

Answer. I think it was.

Question. How thick was the rim?

Answer. I think about three-sixteenths of an inch.

Question, (by Mr. GREENWOOD.) Are you a manufacturer of canes?

Answer. No, sir.

Question. Do you deal in them?

Answer. Yes, sir.

Question. When did you make this examination?

Answer. Yesterday.

Question. Was it since you have been subpoenaed?

Answer. No, sir ; Mr. Pennington requested me to make the examination ; since I made it I have been subpoenaed before the committee.

JAMES Y. DAVIS.

Edwin D. Coleman sworn :

Question, (by Mr. CAMPBELL.) State to the committee what you know in regard to the circumstances attending the assault by Mr. Brooks upon Senator Sumner.

Answer. I know nothing at all in relation to it. I was asleep in General Denver's room at the time the assault was said to have been committed, and I was at a loss to know why I was subpoenaed.

Question. Did you hear of any threats before or subsequent to the transaction ?

Answer. No, sir. I had several conversations with Mr. Brooks upon general subjects prior to the alleged assault, and I have spoken with him several times since, but I have never heard a word from him in relation to the matter. Mr. Sumner I am not acquainted with.

Question, (by Mr. PENNINGTON.) Have you ever heard of any premeditation upon the part of Mr. Brooks, or others, of this assault ?

Answer. I have never heard from any person that such an assault was to be made. I may have heard some passing remark that some person ought to punish Mr. Sumner for such language spoken towards Judge Butler ; but it was a mere passing remark, not from any party implicated.

Question. Did you hear the remark from any member of Congress ?

Answer. No, sir ; not that I recollect. I am often in company with members of Congress and others, and have heard this matter canvassed ; but I do not think that I have heard such a remark made by any member of Congress.

EDWIN D. COLEMAN.

Mr. COBB moved that Mr. Brooks, Mr. Keitt, and Mr. Rivers be informed that they can read the testimony taken before the committee, and then be heard as witnesses, or have other witnesses examined if they see proper so to do ; which motion was agreed to.

On motion of Mr. COBB, the committee then took a recess for half an hour.

The committee having re-assembled, Mr. CAMPBELL stated that he had informed Messrs. Rivers and Brooks of the order of the committee ; that he had been unable to find Mr. Keitt, but had sent to inform him.

Hon. James B. Ricard sworn :

Question, (by Mr. CAMPBELL.) Do you know anything of the facts connected with the alleged assault on Senator Sumner ?

Answer. Nothing in the world. I had never heard that the assault was contemplated, and heard nothing in relation to it until after it was committed.

Question. Did you hear any conversation between Mr. Rivers and any other person on the subject ?

Answer. On Wednesday, I think it was, I had a conversation with Mr. Rivers. Mr. Rivers was reading the speech delivered by Mr. Sumner. He called my attention to it, and asked me if I had seen

the speech. I replied that I had read it. He asked me what I thought of it. I told him I thought the speech was very violent and very offensive, showing a great deal of feeling and a great deal of malicious preparation. Mr. Rivers remarked that he thought it was very outrageous upon Senator Butler; that it charged him with direct and open falsehood; and that he hoped when Judge Butler came back he would resent it; that he would whip him, and put his foot upon his face. I replied that I hoped he would do no such thing; that Judge Butler was an old man—a man whose reputation was very high, and deservedly so; and that any such attempt on his part would but create a false sympathy for a man whose race I thought was nearly run; that it would be very imprudent to advise Judge Butler to such a course. At that time I had not heard, and did not know, that Mr. Brooks was a nephew of Judge Butler. I think I heard the fact the next day for the first time.

Question, (by Mr. PENNINGTON.) Who was present when this conversation took place?

Answer. The conversation, when it commenced, was between Mr. Rivers and myself. During the conversation—perhaps near the close—Mr. Orr, of South Carolina, passed down the aisle, and, having been absent for some time, I spoke to him, and shook him by the hand. He was the only other person present during any part of the conversation, and my recollection is that Mr. Orr was not present when the remarks were made by Mr. Rivers.

JAMES B. RICAUD.

Adam J. Glossbrenner sworn:

Question, (by Mr. CAMPBELL.) State whether you have in your possession a piece of the stick with which it is represented the assault was committed by Mr. Brooks upon Senator Sumner?

Answer. I have a fragment here present which was handed to me within a short time after the occurrence, and before I had heard of it from any other quarter. Mr. Edmundson stepped into my office with the stick, and requested me to take charge of it, which I did, putting it into my safe. He informed me that an assault had been committed by Mr. Brooks upon Mr. Sumner; and I think he stated that this was the stick used. I have measured the stick carefully. The fragment I have is the head of the stick, the smaller end having been broken off. It is twenty-one and three-quarter inches in length, one inch thick at the large end, and three-quarters of an inch thick at the small end. The cane is hollow, the hollow being three-eighths of an inch in diameter at the small end, and seeming to increase proportionally to the head.

ADAM J. GLOSSBRENNER.

On motion of Mr. GREENWOOD, the committee adjourned until tomorrow, at ten o'clock a. m.

THURSDAY, *May 29*, 1856.

The committee met pursuant to adjournment, and immediately took a recess until two o'clock p. m.

The committee again met at two o'clock p. m.

All the members present.

A message from the Senate relative to the subject-matter before the committee was transmitted by the Clerk of the House, the same having been referred by the House to the committee.

On motion of Mr. COBB, it was

Ordered, That the said message and accompanying documents be spread upon the journal of the committee.

They are as follows :

“IN THE SENATE OF THE UNITED STATES—*May 28*, 1856.

“The select committee appointed to inquire into the circumstances attending the assault committed upon the person of the Hon. Charles Sumner, a member of the Senate, report :

“That from the testimony taken by them it appears that the Hon. Preston S. Brooks, a member of the House of Representatives from the State of South Carolina, did, on the 22d day of the present month, after the adjournment of the Senate, and while Mr. Sumner was seated at his desk in the Senate chamber, assault him with considerable violence, striking him numerous blows on and about the head with a walking-stick, which cut his head, and disabled him for the time being from attending to his duties in the Senate. The cause of this assault was certain language used by Mr. Sumner in debate, on the Monday and Tuesday preceding, which Mr. Brooks considered libellous of the State of South Carolina, and slanderous of his near kinsman, Mr. Butler, a senator from that State, who at the time was absent from the Senate and the city.

“The committee forbear to comment upon the various circumstances which preceded and attended this affair, whether of aggravation or extenuation, for reasons which will be sufficiently obvious in the latter part of the report.

“They have examined the precedents which are to be found only in the proceedings of the House of Representatives, the Senate never having been called on to pronounce its judgment in a similar case. In the House of Representatives, though different opinions have at various times been expressed by gentlemen of great eminence and ability, among whom may be mentioned the late President of the United States, Mr. Polk, the late Judge Barbour, of the Supreme Court, and Mr. Beardsley, of New York, yet the judgment of the House has always pronounced an assault upon a member for words spoken in debate to be a violation of the privileges of the House.

“The committee do not consider it necessary to discuss the question

at length, but proceed to state some of the precedents, not confining them, however, to the case of assault upon members.

“In March, 1796, Mr. Baldwin, a member of the House of Representatives, presented to the House certain correspondence between himself and General Gunn, a senator from the State of Georgia, including a challenge addressed to him by General Gunn. These were referred to a committee of which Mr. Madison was chairman, who reported by their chairman that the same was a breach of the privilege of the House on the part of General Gunn, and of Mr. Frelinghuysen, a senator from New Jersey, by whom the challenge had been borne.

“In May, 1828, a personal assault having been made by Mr. Russell Jarvis upon Mr. John Adams, the private secretary of the President, just after his delivering a message to the House of Representatives, and while on his way to the Senate with another message, the matter was, on complaint of the President, referred to a select committee. A majority of the committee, by Mr. McDuffie, of South Carolina, their chairman, reported that—

“‘Upon a view of all the circumstances, the committee are of opinion that the assault committed by Mr. Jarvis upon the private secretary of the President, whatever may have been the cause of provocation, was an act done in contempt of the authority and dignity of this House, involving not only a violation of its own peculiar privileges, but of the immunity which it is bound upon every principle to guaranty to the person selected by the President as the organ of his official communications to Congress. It is of the utmost importance that the official intercourse between the President and the legislative department should not be liable to interruption. The proceedings of Congress could not be more effectually arrested by preventing the members of either House from going to the hall of their deliberations, than they might be by preventing the President from making official communications, essentially connected with the legislation of the country.’ * * * ‘The power in question grows out of the great law of self-preservation. It is, no doubt, very liable to abuse, and ought always to be exercised with great moderation. In its very nature, it is not susceptible either of precise definition or precise limitation. Each particular instance of its exercise must be adapted to the emergency which calls for it. While, therefore, the committee deem it a matter of great importance to maintain the existence of this power as an essential means of vindicating the dignity and privileges of the House, they are clearly of the opinion that it ought never to be exercised except in cases of strong necessity, and that the punishment inflicted under it ought never to be carried further than shall be absolutely and imperatively required by the existing emergency.’

“In 1832, the House of Representatives, after a long trial and thorough discussion of the question, voted that General Houston, by making a personal assault on Mr. Stanbery, a member of the House, for words spoken in debate, was guilty of a contempt and violation of the privileges of the House.

“The committee acknowledge the force of these precedents, and adopt the reasoning quoted from Mr. McDuffie’s report; but, while it

is the opinion of the committee that this assault was a breach of the privileges of the Senate, they also think that it is not within the jurisdiction of the Senate, and can only be punished by the House of Representatives, of which Mr. Brooks is a member. This opinion is in strict conformity with the recognised parliamentary law. Hatsell, in his *Precedents*, says as follows :

“ ‘The leading principle which appears to pervade all the proceedings of the two Houses of Parliament is that there shall subsist a perfect equality with respect to each other; and that they shall be, in every respect, totally independent one of the other. From hence it is that neither House can claim, much less exercise, authority over a member of the other; but, if there is any ground of complaint against an act of the House itself, against any individual member, or against any of the officers of either House, this complaint ought to be made to that House of Parliament where the offence is charged to be committed; and the nature and mode of redress or punishment, if punishment is necessary, must be determined upon and inflicted by them. Indeed, any other proceeding would soon introduce disorder and confusion, as it appears actually to have done in those instances where both Houses, claiming a power independent of each other, have exercised that power upon the same subject, but with different views and contrary purpose.’—3 *Hatsell*, 67.

“ ‘We see, from the several precedents above cited, that neither House of Parliament can take upon themselves any breach of privilege offered to them by any member of the other House; but that in such cases the usual mode of proceeding is to examine into the fact, and then to lay a statement of that evidence before the House of which the person complained of is a member.’—*Ibid.*, 71.

“ ‘Mr. Jefferson, in the *Manual of Parliamentary Practice*, prepared by him, lays down the following rule :

“ ‘Neither House can exercise any authority over a member or officer of the other, but should complain to the House of which he is a member, and leave the punishment to them.’

“ ‘A brief examination of the constitutional privileges of senators and representatives will show the soundness of this rule of parliamentary law.

“ ‘The Constitution provides, article 1st, section 6th, that ‘They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, in going to and returning from the same.’ But the Senate is not a court of criminal judicature, empowered to try the excepted offences, and cannot take cognizance of a breach of the peace, *as such*. It cannot take any notice of the assault except as a breach of its privileges, and in this aspect it is not one of the cases in which the privilege from arrest is excepted.

“ ‘The Senate, therefore, for a breach of its privileges, cannot arrest a member of the House of Representatives, and, *a fortiori*, cannot try and punish him. That authority devolves solely upon the House of which he is a member.

“ ‘It is the opinion of the committee, therefore, that the Senate cannot proceed further in the present case than to make complaint to

the House of Representatives of the assault committed by one of its members, the Hon. Preston S. Brooks, upon the Hon. Charles Sumner, a senator from the State of Massachusetts.

"The committee submit herewith certain affidavits taken by them in the case, and the following resolution :

"*Resolved*, That the above report be accepted, and that a copy thereof, and the affidavits accompanying the same, be transmitted to the House of Representatives.

"*Question to Colonel Nicholson*. Will you state to the committee whether you witnessed the recent assault upon Mr. Sumner ; and if you did, state all the particulars?

"On Thursday last, the 22d of May instant, a few moments after the adjournment of the Senate, I retired, as usual, to my desk in one of the offices of the Secretary of the Senate. After the lapse of a brief period I returned to the Senate chamber to request the assistant door-keeper (Mr. Holland) to have a piece of money changed for me. After seeing the door-keeper and communicating my wish to him, I was walking down the main aisle of the chamber, when I observed the Hon. Mr. Brooks, of South Carolina, sitting at the desk of Senator Pratt. I saluted him, 'How is Colonel Brooks to day?' He responded, 'Well, I thank you ;' and beckoning to me, he added, 'Come here, Nicholson.' I advanced, and placed myself in Senator Bayard's chair, near which, on my right, Major Emory, of the United States army, was standing, and with whom I had been conversing a few minutes before. Colonel Brooks remarked to me, in his usual tone of voice, and without the slightest show of inquietude, 'Do you see that lady in the lobby?' Turning around, and observing a lady sitting on the lounge at a short distance from us, I said, 'Yes.' Colonel Brooks said, 'She has been there for some time ; what does she want? Can't you manage to get her out?' Thinking that Colonel Brooks was only indulging a momentary whim, I jocosely replied, 'No ; that would be ungallant ; besides, she is very pretty.' Colonel Brooks, turning round, and looking at the lady, said, 'Yes, she is pretty, but I wish she would go.'

"At this moment the changed money was brought to me by one of the pages, and almost at the same moment Major Emory inquired, 'Who was that gentleman you were conversing with?' I had scarcely said, 'Colonel Brooks, of South Carolina, a very clever fellow,' when, observing Colonel Brooks advancing in front of and towards, as though about to speak to Senator Sumner, who was sitting at his desk, apparently engaged in writing, or with papers before him, I cannot be positive which, I involuntarily attempted to call Major Emory's attention to the fact, for I was much surprised to see a South Carolina representative in the act of approaching to speak to Senator Sumner, after the speech delivered by the latter the two previous days but one in the Senate. But before I could attract Major Emory's attention, or express surprise, I saw Colonel Brooks lean on and over the desk of Senator Sumner, and seemingly say something to him, and instantly, and while Senator Sumner was in the act of rising, Colonel Brooks struck him over the head with a dark-colored walking-cane, which blow he repeated twice or three times, and with rapidity. I think

several blows had been inflicted before Senator Sumner was fully in possession of his locomotion, and extricated from his desk, which was thrown over or broken from its fastenings by the efforts of the senator to extricate himself. As soon as Senator Sumner was free from the desk, he moved down the narrow passage-way, under the impetuous drive of his adversary, with his hands uplifted, as though to ward off the blows which were rained on his head with as much quickness as was possible for any man to use a cane on another whom he was intent on chastising. The scene occupied but a point of time—only long enough to raise the arm and inflict some ten or twelve blows in the most rapid succession—the cane having been broken in several pieces. All the while Senator Sumner was holding his hands above his head, and turning and tottering, until he sank gradually on the floor near Senator Collamer's desk, in a bleeding and apparently exhausted condition. I did not hear one word, or murmur, or exclamation, from either party until the affair was over.

"Such was the suddenness of the affair, the rapidity of its execution, the position of persons in the chamber, and the relative position of the chairs and desks, that, although several persons (myself among them) quickly advanced to the spot where the parties were engaged, it was not in the power of those present to have separated Colonel Brooks, or to have rescued Senator Sumner, so as to have prevented the former from accomplishing his purpose. Such was the conclusion of my judgment at the moment of the occurrence, and such it is now.

"JOS. H. NICHOLSON.

"WASHINGTON, *May 27, 1856.*"

"*Question*, (by Mr. ALLEN.) What senators were present at the time?

"*Answer.* Senators Toombs, Pearce, and Crittenden were seated in their respective chairs just preceding the affair. During its occurrence, and towards the close of it, I observed Mr. Crittenden near the parties, evidently striving to terminate the assault. I cannot now say I observed any other senators until the affair was over.

"What members of the House of Representatives were present?

"The only member of the House of Representatives whom I recognised was the Hon. Mr. Keitt, of South Carolina, who approached the parties about the same time Mr. Crittenden did.

"*Question* propounded to Governor Brown, of Mississippi:

"Please to state to the committee the cause of the assault committed by Mr. Brooks upon Mr. Sumner, as stated to you.

"Did Mr. Brooks state to you the cause of his assault upon Mr. Sumner, and the language which he addressed to Mr. Sumner just before the assault? If so, please to tell the committee what his language was, or what the cause of the assault.

"On the day of the occurrence, and shortly after, I met Mr. Brooks in company with Mr. Keitt, on the avenue, nearly opposite the Union buildings. After the usual salutations, Mr. Keitt mentioned what had occurred, and was proceeding to give some account of it, when Mr. Brooks interposed with this remark: 'The town, I suppose, will be full of rumors in a few hours, and I desire my friends to un-

derstand precisely what I have done, and why I did it. Regarding the speech of Mr. Sumner as an atrocious libel on South Carolina, and a gross insult to my absent relative, Judge Butler, I determined, when it was delivered, to punish him for it. To-day, I approached him after the Senate adjourned, and said to him: Mr. Sumner, I have read your speech carefully, and with as much calmness as I could be expected to read such a speech. You have libelled my State, and slandered my relative, who is aged and absent; and I feel it to be my duty to punish you for it; and with that I struck him a blow across the head with my cane, and repeated it until I was satisfied. No one interposed, and I desisted simply because I had punished him to my satisfaction.'

"This is substantially, and almost literally, the statement of Mr. Brooks. The conversation then turned on other points and phases of the affair.

"A. G. BROWN.

"Attest: ASBURY DICKINS, *Secretary*."

"IN THE SENATE OF THE UNITED STATES,
May 28, 1856.

"Resolved, That the above report be accepted, and that a copy thereof, and of the affidavits accompanying the same, be transmitted to the House of Representatives.

"Attest:

ASBURY DICKINS,
Secretary."

The chairman informed the committee that, under their directions he had this morning called on Mr. Keitt, and informed him in person that the committee had directed him (the chairman) to say that he (Mr. K.) should have the privilege of reading the testimony, of testifying himself, and, if he saw fit to do so, of calling in any witnesses he might see fit to have subpoenaed.

On motion, the committee adjourned until to-morrow, at eleven o'clock a. m.

FRIDAY, May 30, 1856.

The committee met pursuant to adjournment.

The chairman presented a report and resolutions relating to the subject-matter before the committee, for its adoption.

Mr. COBB asked for a separate vote upon the adoption of the report, and upon each of the resolutions.

The report is as follows:

The select committee appointed under the resolution of the House passed on the 23d day of May, 1856, to investigate the subject of the assault, alleged to have been made in the Senate chamber, by the Hon. Preston S. Brooks and other members of the House, upon the

Hon. Charles Sumner, a senator from the State of Massachusetts, and to whom the House referred the proceedings of the Senate, announcing that they—a co-ordinate branch of Congress—"make complaint to the House of Representatives of the assault committed by one of its members—the Hon. Preston S. Brooks—upon the Hon. Charles Sumner, a senator from the State of Massachusetts," having taken such testimony as was accessible to them, beg leave to make the following report, with the accompanying testimony :

The committee, upon a full investigation of the subject, concur in the following conclusions, which the Senate seem unanimously to have declared :

1. "That the Hon. Preston S. Brooks, a member of the House of Representatives from the State of South Carolina, did, on the 22d day of the present month, after the adjournment of the Senate, and while Mr. Sumner was seated at his desk in the Senate chamber, assault him with considerable violence, striking him numerous blows on and about the head with a walking-stick, which cut his head, and disabled him for the time being from attending to his duties in the Senate."

2. "That this assault was a breach of the privileges of the Senate."

3. That "the Senate, for a breach of its privileges, cannot arrest a member of the House of Representatives, and, *a fortiori*, cannot try and punish him; that such authority devolves upon the House of which he is a member," and, therefore, "that it is not within the jurisdiction of the Senate, and can only be punished by the House of Representatives, of which Mr. Brooks is a member."

The committee therefore report back the complaint of the Senate, with the journal of their proceedings and the testimony taken in the premises, pursuant to the resolution of the House.

The testimony discloses the following facts :

On Monday and Tuesday, the 19th and 20th days of May, 1856, Mr. Sumner delivered a speech in the Senate in reply to a senator from South Carolina, (Mr. Butler,) and other senators, an authenticated copy of which is appended to the accompanying testimony, and forms a part of this report.

It appears that as early as Tuesday, before the speech was concluded, Mr. Brooks took exception to the remarks of the senator; and that on Wednesday morning, after the delivery of the speech, he declared to Mr. Edmundson of the House, by whom he was casually met in the Capitol grounds a short time before the meeting of the two houses, that he had determined to punish Mr. Sumner unless he made an ample apology for the language he had uttered in his speech, and expressed a desire that Mr. Edmundson should be present as a witness to the transaction; that they thereupon took a seat near the walk leading from Pennsylvania avenue to the Capitol, and there remained some fifteen minutes, awaiting the approach of Mr. Sumner; and he not making his appearance, they then proceeded to the Capitol.

On Thursday morning he was again casually met by Mr. Edmundson at the western entrance of the Capitol grounds, on Pennsylvania avenue, a point which commands a view of all the approaches to the Capitol from that portion of the city in which Mr. Sumner resides.

Here Mr. Brooks informed Mr. Edmundson that he was on the lookout for Mr. Sumner, and again declared his purpose to resent the language of Mr. Sumner's speech; and after remaining for a short period, Mr. Sumner not approaching, the two again proceeded to the Capitol.

After the reading of the journal of the House on Thursday, the death of the Hon. Mr. Miller, of Missouri, was announced, addresses delivered, the customary resolutions adopted, and thereupon the House adjourned.

When the message was received by the Senate from the House, announcing the death of Mr. Miller, a tribute of respect was paid to the deceased by Senator Geyer, in an address, and that body thereupon also adjourned. Most of the senators left the Senate chamber, a few only remaining. Mr. Sumner continued in his seat, engaged in writing. Mr. Brooks approached, and, addressing a few words to him, immediately commenced the attack, by inflicting blows upon his bare head, whilst he was in a sitting posture, with a large and heavy cane. Stunned and blinded by the first blow, and confined by his chair and desk, Mr. Sumner made several ineffectual efforts to rise, and finally succeeded, by wrenching his desk from its fastenings. The blows were repeated by Mr. Brooks with great rapidity and extreme violence, while Mr. Sumner, almost unconscious, made further efforts of self-defence, until he fell to the floor under the attack, bleeding and powerless.

The wounds were severe and calculated to endanger the life of the senator, who remained for several days in a critical condition. It appears that the blows were inflicted with a cane, the material of which was about the specific gravity of hickory or whalebone, one inch in diameter at the larger end, and tapering to the diameter of about five eighths of an inch at the smaller end. It is not too much to say that the weapon used was of a deadly character, and that the blows were indiscriminately dealt, at the hazard of the life of the assailed.

The committee have extended to the parties implicated the fullest facilities for taking exculpatory testimony. There is no proof to show, nor has it been in any way intimated, that Mr. Brooks at any time, in any manner, directly or indirectly, notified Mr. Sumner of his intention to make the assault. There is no evidence that Mr. Sumner ever carried weapons, either for the purpose of attack or defence; on the contrary, it appears that he did not anticipate personal violence until at the instant he received the first blow, and that he was not armed or otherwise prepared in any respect for self-defence.

There is no evidence beyond the character of the attack tending to show an intention on the part of Mr. Brooks to kill the senator, his expressions being that he did not intend to kill, but to punish him; but the committee cannot but regard the assault as a most flagrant violation, not only of the privileges of the Senate and of the House, as co-ordinate branches of the legislative department of the government, and the personal rights and privileges of the senator, but of the rights of his constituents and of our character as a nation. It was premeditated during a period of at least two days, without any other provocation than words lawfully spoken in debate in the Senate

chamber, not ruled out of order by the President of the Senate, nor objected to by any senator as violative of the rules established for the government and order of that body.

The act cannot, therefore, be regarded by the committee otherwise than as an aggravated assault upon the inestimable right of freedom of speech guarantied by the constitution. It asserts for physical force a prerogative over governments, constitutions, and laws; and, if carried to its ultimate consequences, must result in anarchy, and bring in its train all the evils of a "reign of terror."

The committee, therefore, in conformity to the spirit of the resolution of the House, and their sense of public duty, are constrained to recommend to the House the passage of such resolutions as will vindicate its own character, and rebuke the member who has, so unhappily for himself and the country, perpetrated this great wrong.

The committee do not discuss the powers of the House to punish its disorderly members, nor do they undertake to argue the general question as to what constitutes a breach of privilege. The passage of the resolution raising the committee is regarded as a declaration on the part of the House of its power to call its members to account for such acts as violate the privileges of the Senate. This assault having been committed by a member upon a senator "whilst remaining in his seat in the Senate chamber in the performance of the duties pertaining to his official station," and for words there spoken in debate, the committee have no doubt of the right or power of the House to adopt the resolutions which they recommend.

No testimony has been taken, nor are the committee aware of any, which shows that any other member of the House was either actively engaged in the assault or designed to commit any violence upon Mr. Sumner, nor that any other member knew the "*precise time when*" or "*the place where*" Mr. Brooks would assail him. It does appear, however, that the Hon. Henry A. Edmundson, of Virginia, and the Hon. Lawrence M. Keitt, of South Carolina, members of the House, had been previously informed of the purpose of Mr. Brooks to commit an assault upon Mr. Sumner, and that they anticipated that the assault would take place in or near the Senate chamber about the time the occurrence did take place. Mr. Keitt was in the Senate chamber, and Mr. Edmundson in a room adjoining it, at the time the attack was made; and it is proved that Mr. Keitt rushed up with a cane in a threatening manner when the bystanders attempted to protect Mr. Sumner from the blows of Mr. Brooks, and that Mr. Edmundson entered the chamber soon after Mr. Sumner fell.

The committee do not feel themselves justified in expressing the opinion upon the testimony that either of these members was a principal or accessory in the assault, but regard their conduct in the transaction—and particularly in not taking steps to prevent the perpetration of the wrong, or to inform the senator of his danger—as reprehensible. The committee, therefore, recommend the adoption of the following resolutions.

The question being taken, it was decided in the affirmative—yeas 3, nays 2, as follows:

YEAS—Messrs. Campbell, Pennington, and Spinner.

NAYS—Messrs. Cobb and Greenwood.

So the report was adopted.

The following is the preamble and first resolution :

Whereas the Senate of the United States have transmitted to this House a message, complaining that Preston S. Brooks, a representative from the State of South Carolina, committed upon the person of Charles Sumner, a senator from the State of Massachusetts, whilst seated at his desk in the Senate chamber, after the adjournment of that body on the 22d of May last, a violent assault, which disabled him from attending to his duties in the Senate, and declaring that the said assault was a breach of the privileges of that body: And whereas, from respect to the privileges of the House, the Senate have further declared that, inasmuch as the said Preston S. Brooks is a member of this House, they cannot arrest, and, *a fortiori*, cannot try or punish him for a breach of their privileges, that they cannot proceed further in the case than to make their complaint to this House, and that the power to arrest, try, and punish, devolves solely on this body: And whereas, upon full investigation, it appears to this House that the said Preston S. Brooks has been guilty of the assault complained of by the Senate, with most aggravated circumstances of violence; that the same was a breach of the privileges not only of the Senate, but of the senator assailed, and of this House, as a co-ordinate branch of the legislative department of government, in direct violation of the constitution of the United States, which declares that senators and representatives “for any speech or debate in either House shall not be questioned in any other place:” And whereas this House is of opinion that it has the power, and ought to punish the said Preston S. Brooks for the said assault, not only as a breach of the privileges of the senator assailed, and of the Senate and House, as declared by the constitution, but as an act of disorderly behavior: And whereas it further appears, from such investigation, that Henry A. Edmundson, a representative from the State of Virginia, and Lawrence M. Keitt, a representative from the State of South Carolina, some time previous to the said assault were informed that it was the purpose of the said Preston S. Brooks to commit violence upon the person of said Charles Sumner, for words used by him in debate as a senator in the Senate, and took no measure to discourage or prevent the same; but, on the contrary, anticipating the commission of such violence, were present on one or more occasions to witness the same, as friends of the assailant: Therefore,

Resolved, That Preston S. Brooks be, and he is forthwith, expelled from this House, as a representative from the State of South Carolina.

The question being taken upon the above preamble and resolution, it was decided in the affirmative—yeas 3, nays 2, as follows:

YEAS—Messrs. Campbell, Pennington, and Spinner.

NAYS—Messrs. Cobb and Greenwood.

So the resolution was adopted.

The following is the second resolution :

Resolved, That this House hereby declare its disapprobation of the

said act of Henry A. Edmundson and Lawrence M. Keitt, in regard to the said assault.

The question being taken upon the above resolution, it was decided in the affirmative—yeas 3, nays 2, as follows :

YEAS—Messrs. Campbell, Pennington, and Spinner.

NAYS—Messrs Cobb and Greenwood.

So the second resolution was adopted.

The chairman was thereupon directed to report the resolutions to the House, with the accompanying report of the committee.

On motion of Mr. COBB, it was

Ordered, That the chairman be directed to audit the accounts of the clerk for his services while attending on the sessions of the committee.

The committee then, on motion, adjourned *sine die*.

APPENDIX.

The Crime Against Kansas.—The Apologies for the Crime.—The True Remedy.

SPEECH OF HON. CHARLES SUMNER,

IN THE SENATE OF THE UNITED STATES—19th and 20th May, 1856.

Mr. President, you are now called to redress a great transgression. Seldom in the history of nations has such a question been presented. Tariffs, army bills, navy bills, land bills, are important, and justly occupy your care; but these all belong to the course of ordinary legislation. As means and instruments only, they are necessarily subordinate to the conservation of government itself. Grant them or deny them, in greater or less degree, and you will inflict no shock. The machinery of government will continue to move. The State will not cease to exist. Far otherwise is it with the eminent question now before you, involving, as it does, liberty in a broad Territory, and also involving the peace of the whole country with our good name in history for evermore.

Take down your map, sir, and you will find that the Territory of Kansas, more than any other region, occupies the middle spot of North America, equally distant from the Atlantic on the east, and the Pacific on the west; from the frozen waters of Hudson's bay on the north, and the tepid Gulf Stream on the south, constituting the precise territorial centre of the whole vast continent. To such advantages of situation, on the very highway between two oceans, are added a soil of unsurpassed richness, and a fascinating, undulating beauty of surface, with a health-giving climate, calculated to nurture a powerful and generous people, worthy to be a central pivot of American institutions. A few short months only have passed since this spacious mediterranean country was open only to the savage, who ran wild in its woods and prairies; and now it has already drawn to its bosom a population of freemen larger than Athens crowded within her historic gates, when her sons, under Miltiades, won liberty for mankind on the field of Marathon; more than Sparta contained when she ruled Greece, and sent forth her devoted children, quickened by a mother's benediction, to return with their shields or on them; more than Rome gathered on her seven hills, when, under her kings, she commenced that sovereign sway, which afterwards embraced the whole earth; more than London held, when, on the fields of Crecy and Agincourt, the English banner was carried victoriously over the chivalrous hosts of France.

Against this Territory, thus fortunate in position and population, a crime has been committed, which is without example in the records

of the past. Not in plundered provinces or in the cruelties of selfish governors will you find its parallel; and yet there is an ancient instance, which may show at least the path of justice. In the terrible impeachment by which the great Roman orator has blasted through all time the name of Verres, amidst charges of robbery and sacrilege, the enormity which most aroused the indignant voice of his accuser, and which still stands forth with strongest distinctness, arresting the sympathetic indignation of all who read the story, is that away in Sicily he had scourged a citizen of Rome—that the cry “I am a Roman citizen” had been interposed in vain against the lash of the tyrant governor. Other charges were that he had carried away productions of art, and that he had violated the sacred shrines. It was in the presence of the Roman Senate that this arraignment proceeded, in a temple of the forum, amidst crowds—such as no orator had ever before drawn together—thronging the porticos and colonades, even clinging to the house-tops and neighboring slopes, and under the anxious gaze of witnesses summoned from the scene of crime. But an audience grander far, of higher dignity, of more various people and of wider intelligence, the countless multitude of succeeding generations in every land where eloquence has been studied, or where the Roman name has been recognised, has listened to the accusation, and throbbed with condemnation of the criminal. Sir, speaking in an age of light, and in a land of constitutional liberty, where the safeguards of elections are justly placed among the highest triumphs of civilization, I fearlessly assert that the wrongs of much-abused Sicily, thus memorable in history, were small by the side of the wrongs of Kansas, where the very shrines of popular institutions, more sacred than any heathen altar, have been desecrated; where the ballot-box, more precious than any work, in ivory or marble, from the cunning hand of art, has been plundered; and where the cry “I am an American citizen” has been interposed in vain against outrage of every kind, even upon life itself. Are you against sacrilege? I present it for your execration. Are you against robbery? I hold it up to your scorn. Are you for the protection of American citizens? I show you how their dearest rights have been cloven down, while a tyrannical usurpation has sought to install itself on their very necks.

But the wickedness which I now begin to expose is immeasurably aggravated by the motive which prompted it. Not in any common lust for power did this uncommon tragedy have its origin. It is the rape of a virgin Territory, compelling it to the hateful embrace of Slavery; and it may be clearly traced to a depraved longing for a new slave State, the hideous offspring of such a crime, in the hope of adding to the power of Slavery in the National Government. Yes, sir, when the whole world, alike Christian and Turk, is rising up to condemn this wrong, and to make it a hissing to the nations, here in our Republic, *force*—ay, sir, **FORCE**—has been openly employed in compelling Kansas to this pollution, and all for the sake of political power. There is the simple fact, which you will vainly attempt to deny, but which in itself presents an essential wickedness that makes other public crimes seem like public virtues.

But this enormity, vast beyond comparison, swells to dimensions

of wickedness which the imagination toils in vain to grasp, when it is understood, that for this purpose are hazarded the horrors of intestine feud, not only in this distant Territory, but everywhere throughout the country. Already the muster has begun. The strife is no longer local, but national. Even now, while I speak, portents hang on all the arches of the horizon, threatening to darken the broad land, which already yawns with the mutterings of civil war. The fury of the propagandists of slavery, and the calm determination of their opponents, are now diffused from the distant Territory over wide-spread communities, and the whole country, in all its extent—marshalling hostile divisions, and foreshadowing a strife, which, unless happily averted by the triumph of freedom, will become war—fratricidal, parricidal war—with an accumulated wickedness beyond the wickedness of any war in human annals; justly provoking the avenging judgment of Providence and the avenging pen of history, and constituting a strife, in the language of the ancient writer, more than *foreign*, more than *social*, more than *civil*; but something compounded of all these strifes, and in itself more than war; *sed potius commune quoddam ex omnibus, et plus quam bellum*.

Such is the crime which you are to judge. But the criminal also must be dragged into day, that you may see and measure the power by which all this wrong is sustained. From no common source could it proceed. In its perpetration was needed a spirit of vaulting ambition which would hesitate at nothing; a hardihood of purpose which was insensible to the judgment of mankind; a madness for slavery which should disregard the constitution, the laws, and all the great examples of our history; also a consciousness of power such as comes from the habit of power; a combination of energies found only in a hundred arms directed by a hundred eyes; a control of public opinion, through venal pens and a prostituted press; an ability to subsidize crowds in every vocation of life—the politician with his local importance, the lawyer with his subtle tongue, and even the authority of the judge on the bench, and a familiar use of men in places high and low, so that none, from the President to the lowest border postmaster, should decline to be its tool; all these things and more were needed; and they were found in the slave power of our republic. There, sir, stands the criminal—all unmasked before you—heartless, grasping, and tyrannical—with an audacity beyond that of Verres, a subtlety beyond that of Machiavel, a meanness beyond that of Bacon, and an ability beyond that of Hastings. Justice to Kansas can be secured only by the prostration of this influence; for this is the power behind—greater than any President—which succors and sustains the crime. Nay, the proceedings I now arraign derive their fearful consequence only from this connection.

In now opening this great matter, I am not insensible to the austere demands of the occasion; but the dependence of the crime against Kansas upon the slave power is so peculiar and important, that I trust to be pardoned while I impress it by an illustration, which to some may seem trivial. It is related in northern mythology that the god of Force, visiting an enchanted region, was challenged by his royal entertainer to what seemed an humble feat of strength—merely, sir, to

lift a cat from the ground. The god smiled at the challenge, and, calmly placing his hand under the belly of the animal, with superhuman strength strove, while the back of the feline monster arched far upwards, even beyond reach, and one paw actually forsook the earth, until at last the discomfited divinity desisted; but he was little surprised at his defeat when he learned that this creature, which seemed to be a cat, and nothing more, was not merely a cat, but that it belonged to and was a part of the great terrestrial serpent which, in its innumerable folds, encircled the whole globe. Even so to the creature whose paws are now fastened upon Kansas, whatever it may seem to be, constitutes in reality a part of the slave power which, with loathsome folds, now coiled about the whole land. Thus do I expose the extent of the present contest, where we encounter not merely local resistance, but also the unconquered sustaining arm behind. But out of the vastness of the crime attempted, with all its woe and shame, I derive a well-founded assurance of a commensurate vastness of effort against it, by the aroused masses of the country, determined not only to vindicate right against wrong, but to redeem the republic from the thralldom of that oligarchy which prompts, directs, and concentrates the distant wrong.

Such is the crime and such the criminal which it is my duty in this debate to expose; and, by the blessing of God, this duty shall be done completely to the end. But this will not be enough. The apologies which, with strange hardihood, have been offered for the crime, must be torn away, so that it shall stand forth without a single rag or fig-leaf to cover its vileness; and, finally, the true remedy must be shown. The subject is complex in its relations as it is transcendent in importance; and yet, if I am honored by your attention, I hope to exhibit it clearly in all its parts, while I conduct you to the inevitable conclusion that Kansas must be admitted at once, with her present constitution, as a State of this Union, and give a new star to the blue field of our national flag. And here I derive satisfaction from the thought that the cause is so strong in itself as to bear even the infirmities of its advocates; nor can it require anything beyond that simplicity of treatment and moderation of manner which I desire to cultivate. Its true character is such that, like Hercules, it will conquer just so soon as recognised.

My task will be divided under three different heads: *first*, THE CRIME AGAINST KANSAS, in its origin and extent; *secondly*, THE APOLOGIES FOR THE CRIME; and *thirdly*, THE TRUE REMEDY.

But before entering upon the argument I must say something of a general character, particularly in response to what has fallen from senators who have raised themselves to eminence on this floor in championship of human wrongs. I mean the senator from South Carolina, [Mr. BUTLER,] and the senator from Illinois, [Mr. DOUGLAS,] who, though unlike as Don Quixote and Sancho Panza, yet, like this couple, sally forth together in the same adventure. I regret much to miss the elder senator from his seat; but the cause, against which he has run a tilt with such activity of animosity, demands that the opportunity of exposing him should not be lost; and it is for the cause that I speak. The senator from South Carolina has read many books of

chivalry, and believes himself a chivalrous knight with sentiments of honor and courage. Of course he has chosen a mistress to whom he has made his vows, and who, though ugly to others, is always lovely to him; though polluted in the sight of the world, is chaste in his sight—I mean the harlot Slavery. For her his tongue is always profuse in words. Let her be impeached in character, or any proposition made to shut her out from the extension of her wantonness, and no extravagance of manner or hardihood of assertion is then too great for this senator. The phrensy of Don Quixote in behalf of his wench Dulcinea del Toboso is all surpassed. The asserted rights of slavery, which shock equality of all kinds, are cloaked by a fantastic claim of equality. If the slave States cannot enjoy what in mockery of the great fathers of the republic he misnames equality under the constitution—in other words, the full power in the national Territories to compel fellow-men to unpaid toil, to separate husband and wife, and to sell little children at the auction block—then, sir, the chivalric senator will conduct the State of South Carolina out of the Union! Heroic knight! Exalted senator! A second Moses come for a second exodus!

But not content with this poor menace, which we have been twice told was “measured,” the senator, in the unrestrained chivalry of his nature, has undertaken to apply opprobrious words to those who differ from him on this floor. He calls them “sectional and fanatical;” and opposition to the usurpation in Kansas he denounces as “an uncalculating fanaticism.” To be sure, these charges lack all grace of originality, and all sentiment of truth; but the adventurous senator does not hesitate. He is the uncompromising, unblushing representative on this floor of a flagrant *sectionalism*, which now dominates over the Republic, and yet with a ludicrous ignorance of his own position—unable to see himself as others see him—or with an effrontery which even his white head ought not to protect from rebuke, he applies to those here who resist his *sectionalism* the very epithet which designates himself. The men who strive to bring back the government to its original policy, when freedom and not slavery was national, while slavery and not freedom was sectional, he arraigns as *sectional*. This will not do. It involves too great a perversion of terms. I tell that senator, that it is to himself, and to the “organization” of which he is the “committed advocate,” that this epithet belongs. I now fasten it upon him. For myself, I care little for names; but since the question has been raised here, I affirm that the Republican party of the Union is in no just sense *sectional*, but, more than any other party, *national*; and that it now goes forth to dislodge from the high places of the government the tyrannical sectionalism of which the senator from South Carolina is one of the maddest zealots.

To the charge of fanaticism I also reply. Sir, fanaticism is found in an enthusiasm or exaggeration of opinions, particularly on religious subjects; but there may be a fanaticism for evil as well as for good. Now, I will not deny, that there are persons among us loving liberty too well for their personal good, in a selfish generation. Such there may be, and, for the sake of their example, would that there were more! In calling them “fanatics,” you cast contumely upon

the noble army of martyrs, from the earliest day down to this hour; upon the great tribunes of human rights, by whom life, liberty, and happiness, on earth, have been secured; upon the long line of devoted patriots, who, throughout history, have truly loved their country; and upon all who, in noble aspirations for the general good and in forgetfulness of self, have stood out before their age, and gathered into their generous bosoms the shafts of tyranny and wrong, in order to make a pathway for truth. You discredit Luther, when alone he nailed his articles to the door of the church at Wittenberg, and then, to the imperial demand that he should retract, firmly replied, "Here I stand; I cannot do otherwise, so help me God!" You discredit Hampden, when alone he refused to pay the few shillings of ship-money, and shook the throne of Charles I; you discredit Milton, when, amidst the corruptions of a heartless court, he lived on, the lofty friend of liberty, above question or suspicion; you discredit Russell and Sidney, when, for the sake of their country, they calmly turned from family and friends, to tread the narrow steps of the scaffold; you discredit those early founders of American institutions, who preferred the hardships of a wilderness, surrounded by a savage foe, to injustice on beds of ease; you discredit our later fathers, who, few in numbers and weak in resources, yet strong in their cause, did not hesitate to brave the mighty power of England, already encircling the globe with her morning drum-beats. Yes, sir, of such are the fanatics of history, according to the senator. But I tell that senator, that there are characters badly eminent, of whose fanaticism there can be no question. Such were the ancient Egyptians, who worshipped divinities in brutish forms; the Druids, who darkened the forests of oak, in which they lived, by sacrifices of blood; the Mexicans, who surrendered countless victims to the propitiation of their obscene idols: the Spaniards, who, under Alva, sought to force the inquisition upon Holland, by a tyranny kindred to that now employed to force slavery upon Kansas; and such were the Algerines, when in solemn conclave, after listening to a speech not unlike that of the senator from South Carolina, they resolved to continue the slavery of white Christians, and to extend it to the countrymen of Washington! Ay, sir, extend it! And in this same dreary catalogue faithful history must record all who now, in an enlightened age and in a land of boasted freedom, stand up, in perversion of the constitution and in denial of immortal truth, to fasten a new shackle upon their fellow-man. If the senator wishes to see fanatics, let him look round among his own associates; let him look at himself.

But I have not done with the senator. There is another matter regarded by him of such consequence, that he interpolated it into the speech of the senator from New Hampshire, [Mr. HALE,] and also announced that he had prepared himself with it, to take in his pocket all the way to Boston, when he expected to address the people of that community. On this account, and for the sake of truth, I stop for one moment, and tread it to the earth. The North, according to the senator, was engaged in the slave trade, and helped to introduce slaves into the southern States; and this undeniable fact he proposed to establish by statistics, in stating which his errors surpassed his

sentences in number. But I let these pass for the present, that I may deal with his argument. Pray, sir, is the acknowledged turpitude of a departed generation to become an example for us? And yet the suggestion of the senator, if entitled to any consideration in this discussion, must have this extent. I join my friend from New Hampshire in thanking the senator from South Carolina for adducing this instance; for it gives me an opportunity to say, that the northern merchants, with homes in Boston, Bristol, Newport, New York, and Philadelphia, who catered for slavery during the years of the slave trade, are the lineal progenitors of the northern men, with homes in these places, who lend themselves to slavery in our day; and especially that all, whether north or south, who take part, directly or indirectly, in the conspiracy against Kansas, do but continue the work of the slave-traders, which you condemn. It is true, too true, alas! that our fathers were engaged in this traffic; but that is no apology for it. And in repelling the authority of this example, I repel also the trite argument founded on the earlier example of England. It is true that our mother country, at the peace of Utrecht, extorted from Spain the Assiento Contract, securing the monopoly of the slave trade with the Spanish colonies, as the whole price of all the blood of great victories; that she higgled at Aix-la-Chapelle for another lease of this exclusive traffic; and again, at the treaty of Madrid, clung to the wretched piracy. It is true, that in this spirit the power of the mother country was prostituted to the same base ends in her American colonies, against indignant protests from our fathers. All these things now rise up in judgment against her. Let us not follow the senator from South Carolina to do the very evil to-day, which in another generation we condemn.

As the senator from South Carolina is the Don Quixote; the senator from Illinois [Mr. DOUGLAS] is the squire of slavery, its very Sancho Panza, ready to do all its humiliating offices. This senator, in his labored address, vindicating his labored report—piling one mass of elaborate error upon another mass—constrained himself, as you will remember, to unfamiliar decencies of speech. Of that address I have nothing to say at this moment, though before I sit down I shall show something of its fallacies. But I go back now to an earlier occasion, when, true to his native impulses, he threw into this discussion, “for a charm of powerful trouble,” personalities most discreditable to this body. I will not stop to repel the imputations which he cast upon myself; but I mention them to remind you of the “sweltered venom sleeping got,” which, with other poisoned ingredients, he cast into the caldron of this debate. Of other things I speak. Standing on this floor, the senator issued his rescript, requiring submission to the usurped power of Kansas; and this was accompanied by a manner—all his own—such as befits the tyrannical threat. Very well. Let the senator try. I tell him now that he cannot enforce any such submission. The senator, with the slave power at his back, is strong, but he is not strong enough for this purpose. He is bold. He shrinks from nothing. Like Danton, he may cry, “*l’audace! l’audace! toujours l’audace!*” but even his audacity cannot compass this work. The senator copies the British officer, who, with boastful swagger,

said that with the hilt of his sword he would cram the "stamps" down the throats of the American people, and he will meet a similar failure. He may convulse this country with civil feud. Like the ancient madman, he may set fire to this temple of constitutional liberty, grander than Ephesian dome, but he cannot enforce obedience to that tyrannical usurpation.

The senator dreams that he can subdue the North. He disclaims the open threat, but his conduct still implies it. How little that senator knows himself, or the strength of the cause which he persecutes! He is but a mortal man; against him is an immortal principle. With finite power he wrestles with the infinite, and he must fall. Against him are stronger battalions than any marshalled by mortal man—the inborn, ineradicable, invincible sentiments of the human heart; against him is nature in all her subtle forces; against him is God. Let him try to subdue these.

But I pass from these things, which, though belonging to the very heart of the discussion, are yet preliminary in character, and pass at once to the main question.

I. It belongs to me now, in the first place, to expose the CRIME AGAINST KANSAS, in its origin and extent. Logically, this is the beginning of the argument. I say crime, and deliberately adopt this strongest term, as better than any other denoting the consummate transgression. I would go further, if language could further go. It is the *crime of crimes*—surpassing far the old *crimen majestatis*, pursued with vengeance by the laws of Rome, and containing all other crimes, as the greater contains the less. I do not go too far, when I call it the *crime against nature*, from which the soul recoils, and which language refuses to describe. To lay bare this enormity, I now proceed. The whole subject has already become a twice-told tale, and its renewed recital will be a renewal of its sorrow and shame; but I shall not hesitate to enter upon it. The occasion requires it from the beginning.

It has been well remarked by a distinguished historian of our country, that, at the Ithuriel touch of the Missouri discussion, the slave interest, hitherto hardly recognised as a distinct element in our system, started up portentous and dilated, with threats and assumptions, which are the origin of our existing national politics. This was in 1820. The discussion ended with the admission of Missouri as a slaveholding State, and the prohibition of slavery in all the remaining territory west of the Mississippi, and north of 36° 30', leaving the condition of other territory south of this line, or subsequently acquired, untouched by the arrangement. Here was a solemn act of legislation, called at the time a compromise, a covenant, a compact, first brought forward in this body by a slaveholder, vindicated by slaveholders in debate, finally sanctioned by slaveholding votes—also upheld at the time by the essential approbation of a slaveholding President, James Monroe, and his cabinet, of whom a majority were slaveholders, including Mr. Calhoun himself; and this compromise was made the condition of the admission of Missouri, without which that State could not have been received into the Union. The bargain was simple, and was applicable, of course, only to the territory named.

Leaving all other territory to await the judgment of another generation, the South said to the North, Conquer your prejudices so far as to admit Missouri as a slave State, and, in consideration of this much-coveted boon, slavery shall be prohibited forever in all the remaining Louisiana Territory above 36° 30'; and the North yielded.

In total disregard of history, the President, in his annual message, has told us that this compromise "was *reluctantly* acquiesced in by the southern States." Just the contrary is true. It was the work of slaveholders, and was crowded by their concurring votes upon a reluctant North. At the time, it was hailed by slaveholders as a victory. Charles Pinckney, of South Carolina, in an oft-quoted letter, written at three o'clock on the night of its passage, says, "It is considered here by the slaveholding States as a great triumph." At the North it was accepted as a defeat, and the friends of freedom everywhere throughout the country bowed their heads with mortification. But little did they know the completeness of their disaster. Little did they dream that the prohibition of slavery in the Territory which was stipulated as the price of their fatal capitulation, would also at the very moment of its maturity be wrested from them.

Time passed, and it became necessary to provide for this Territory an organized government. Suddenly, without notice in the public press, or the prayer of a single petition, or one word of open recommendation from the President—after an acquiescence of thirty-three years, and the irreclaimable possession by the South of its special share under this compromise—in violation of every obligation of honor, compact, and good neighborhood—and in contemptuous disregard of the out-gushing sentiments of an aroused North, this time-honored prohibition, in itself a landmark of freedom, was overturned, and the vast region now known as Kansas and Nebraska was opened to slavery. It was natural that a measure thus repugnant in character should be pressed by arguments mutually repugnant. It was urged on two principal reasons, so opposite and inconsistent as to slap each other in the face—one being that, by the repeal of the prohibition, the Territory would be left open to the entry of slaveholders with their slaves, without hindrance; and the other being, that the people would be left absolutely free to determine the question for themselves, and to prohibit the entry of slaveholders with their slaves, if they should think best. With some, the apology was the alleged rights of slaveholders; with others, it was the alleged rights of the people. With some, it was openly the extension of slavery; and with others, it was openly the establishment of freedom, under the guise of popular sovereignty. Of course, the measure, thus upheld in defiance of reason, was carried through Congress in defiance of all the securities of legislation; and I mention these things that you may see in what foulness the present crime was engendered.

It was carried, *first*, by *whipping in* to its support, through executive influence and patronage, men who acted against their own declared judgment and the known will of their constituents. *Secondly*, by *foisting out of place*, both in the Senate and House of Representatives, important business, long pending, and usurping its room. *Thirdly*, by *trampling under foot* the rules of the House of Representa-

tives, always before the safeguard of the minority. And *fourthly*, by *driving it to a close* during the very session in which it originated, so that it might not be arrested by the indignant voice of the people, Such are some of the means by which this snap judgment was obtained. If the clear will of the people had not been disregarded, it could not have passed. If the government had not nefariously interposed its influence, it could not have passed. If it had been left to its natural place in the order of business, it could not have passed. If the rules of the House and the rights of the minority had not been violated, it could not have passed. If it had been allowed to go over to another Congress, when the people might be heard, it would have been ended; and then the crime we now deplore would have been without its first seminal life.

Mr. President, I mean to keep absolutely within the limits of parliamentary propriety. I make no personal imputations; but only with frankness, such as belongs to the occasion and my own character, describe a great historical act, which is now enrolled in the Capitol. Sir, the Nebraska bill was in every respect a swindle. It was a swindle by the South of the North. It was, on the part of those who had already completely enjoyed their share of the Missouri Compromise, a swindle of those whose share was yet absolutely untouched; and the plea of unconstitutionality set up—like the plea of usury after the borrowed money has been enjoyed—did not make it less a swindle. Urged as a bill of peace, it was a swindle of the whole country. Urged as opening the doors to slave-masters with their slaves, it was a swindle of the asserted doctrine of popular sovereignty. Urged as sanctioning popular sovereignty, it was a swindle of the asserted rights of slave-masters. It was a swindle of a broad territory, thus cheated of protection against slavery. It was a swindle of a great cause, early espoused by Washington, Franklin, and Jefferson, surrounded by the best fathers of the republic. Sir, it was a swindle of God-given inalienable rights. Turn it over; look at it on all sides, and it is everywhere a swindle; and, if the word I now employ has not the authority of classical usage, it has, on this occasion, the indubitable authority of fitness. No other word will adequately express the mingled meanness and wickedness of the cheat.

Its character was still further apparent in the general structure of the bill. Amidst overflowing professions of regard for the sovereignty of the people in the Territory, they were despoiled of every essential privilege of sovereignty. They were not allowed to choose their governor, secretary, chief justice, associate justices, attorney, or marshal—all of whom are sent from Washington; nor were they allowed to regulate the salaries of any of these functionaries, or the daily allowance of the legislative body, or even the pay of the clerks and door-keepers; but they were left free to adopt slavery. And this was called popular sovereignty! Time does not allow, nor does the occasion require, that I should stop to dwell on this transparent device to cover a transcendent wrong. Suffice it to say that slavery is in itself an arrogant denial of human rights, and by no human reason can the power to establish such a wrong be placed among the attributes of any just sovereignty. In refusing it such a place, I do not deny

popular rights, but uphold them; I do not restrain popular rights, but extend them. And, sir, to this conclusion you must yet come, unless deaf, not only to the admonitions of political justice, but also to the genius of our own constitution, under which, when properly interpreted, no valid claim for slavery can be set up anywhere in the national territory. The senator from Michigan [Mr. CASS] may say in response to the senator from Mississippi, [Mr. BROWN,] that slavery cannot go into the Territory under the constitution, without legislative introduction; and permit me to add, in response to both, that slavery cannot go there at all. *Nothing can come out of nothing*; and there is absolutely nothing in the constitution out of which slavery can be derived; while there are provisions which, when properly interpreted, make its existence anywhere within the exclusive national jurisdiction impossible.

The offensive provision in the bill was, in its form, a legislative anomaly, utterly wanting the natural directness and simplicity of an honest transaction. It did not undertake openly to repeal the old prohibition of slavery, but seemed to mince the matter, as if conscious of the swindle. It is said that this prohibition, "being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognised by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void." Thus, with insidious ostentation, was it pretended that an act violating the greatest compromise of our legislative history, and setting loose the foundations of all compromise, was derived out of a compromise. Then followed in the bill the further declaration, which is entirely without precedent, and which has been aptly called "a stump speech in its belly," namely: "it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States." Here were smooth words, such as belong to a cunning tongue enlisted in a bad cause. But whatever may have been their various hidden meanings, this at least was evident, that, by their effect, the congressional prohibition of slavery, which had always been regarded as a seven-fold shield, covering the whole Louisiana Territory north of 36° 30', was now removed, while a principle was declared which would render the supplementary prohibition of slavery in Minnesota, Oregon, and Washington, "inoperative and void," and thus open to slavery all these vast regions, now the rude cradles of mighty states. Here you see the magnitude of the mischief contemplated. But my purpose now is with the crime against Kansas, and I shall not stop to expose the conspiracy beyond.

Mr. President, men are wisely presumed to intend the natural consequences of their conduct, and to seek what their acts seem to promote. Now, the Nebraska bill, on its very face, openly cleared the way for slavery, and it is not wrong to presume that its originators intended the natural consequences of such an act, and sought in this way to extend slavery. Of course they did. And this is the first stage in the crime against Kansas.

But this was speedily followed by other developments. The bare-faced scheme was soon whispered that Kansas must be a slave State. In conformity with this idea was the government of this unhappy Territory organized in all its departments; and thus did the President, by whose complicity the prohibition of slavery had been overthrown, lend himself to a new complicity—giving to the conspirators a lease of connivance amounting even to copartnership. The governor, secretary, chief justice, associate justices, attorney, and marshal, with a whole caucus of other stipendiaries, nominated by the President and confirmed by the Senate, were all commended as friendly to slavery. No man with the sentiments of Washington, or Jefferson, or Franklin, found any favor; nor is it too much to say, that had these great patriots once more come among us, not one of them, with his recorded unretracted opinions on slavery, could have been nominated by the President or confirmed by the Senate for any post in that Territory. With such auspices the conspiracy proceeded. Even in advance of the Nebraska bill, secret societies were organized in Missouri ostensibly to protect her institutions; and afterwards, under the name of “Self-Defensive Associations” and of “Blue Lodges,” these were multiplied throughout the western counties of that State *before any counter-movement from the North*. It was confidently anticipated that, by the activity of these societies, and the interest of slaveholders everywhere, with the advantage derived from the neighborhood of Missouri, and the influence of the Territorial government, slavery might be introduced into Kansas, quietly but surely, without arousing a conflict—that the crocodile egg might be stealthily dropped in the sun-burnt soil, there to be hatched, unobserved until it sent forth its reptile monster.

But the conspiracy was unexpectedly balked. The debate, which convulsed Congress, had stirred the whole country. Attention from all sides was directed upon Kansas, which at once became the favorite goal of emigration. The bill had loudly declared that its object was “to leave the people perfectly free to form and regulate their domestic institutions in their own way;” and its supporters everywhere challenged the determination of the question between freedom and slavery by a competition of emigration. Thus, while opening the Territory to slavery, the bill also opened it to emigrants from every quarter, who might by their votes redress the wrong. The populous North, stung by a sharp sense of outrage, and inspired by a noble cause, poured into the debatable land, and promised soon to establish a supremacy of numbers there, involving, of course, a just supremacy of freedom.

Then was conceived the consummation of the crime against Kansas. What could not be accomplished peaceably was to be accomplished forcibly. The reptile monster, that could not be quietly and securely hatched there, was to be pushed full-grown into the Territory. All efforts were now given to the dismal work of forcing slavery on free soil. In flagrant derogation of the very popular sovereignty whose name helped to impose this bill upon the country, the atrocious object was now distinctly avowed. And the avowal has been followed by the act. Slavery has been forcibly introduced into Kansas, and

placed under the formal safeguard of pretended law. How this was done belongs to the argument.

In depicting this consummation, the simplest outline, without one word of color, will be best. Whether regarded in its mass or its details, in its origin or its result, it is all blackness, illumined by nothing from itself, but only by the heroism of the undaunted men and women whom it envired. A plain statement of facts will be a picture of fearful truth, which faithful history will preserve in its darkest gallery. In the foreground all will recognise a familiar character, in himself a connecting-link between the President and the border ruffian—less conspicuous for ability than for the exalted place he has occupied—who once sat in the seat where you now sit, sir ; where once sat John Adams and Thomas Jefferson ; also, where once sat Aaron Burr. I need not add the name of David R. Atchison. You have not forgotten that, at the session of Congress immediately succeeding the Nebraska bill, he came tardily to his duty here, and then, after a short time, disappeared. The secret has been long since disclosed. Like Catiline, he stalked into this chamber, reeking with conspiracy—*immo in senatum venit* ; and then like Catiline he skulked away—*abiit, excessit, evasit, crupit*—to join and provoke the conspirators, who at a distance awaited their congenial chief. Under the influence of his malign presence the crime ripened to its fatal fruits, while the similitude with Catiline was again renewed in the sympathy, not even concealed, which he found in the very Senate itself, where, beyond even the Roman example, a senator has not hesitated to appear as his open compurgator.

And now, as I proceed to show the way in which this Territory was overrun and finally subjugated to slavery, I desire to remove in advance all questions with regard to the authority on which I rely. The evidence is secondary ; but it is the best which, in the nature of the case, can be had, and it is not less clear, direct, and peremptory, than any by which we are assured of the campaigns in the Crimea or the fall of Sebastopol. In its manifold mass, I confidently assert, that it is such a body of evidence as the human mind is not able to resist. It is found in the concurring reports of the public press ; in the letters of correspondents ; in the testimony of travellers ; and in the unaffected story to which I have listened from leading citizens, who, during this winter, have “come flocking” here from that distant Territory. It breaks forth in the irrepressible outcry, reaching us from Kansas, in truthful tones, which leave no ground of mistake. It addresses us in formal complaints, instinct with the indignation of a people determined to be free, and unimpeachable as the declarations of a murdered man on his dying bed against his murderer. And let me add, that all this testimony finds an echo in the very statute-book of the conspirators, and also in language dropped from the President of the United States.

I begin with an admission from the President himself, in whose sight the people of Kansas have little favor. And yet, after arraigning the innocent emigrants from the North, he was constrained to declare that their conduct was “far from justifying the *illegal* and *reprehensible* counter-movement which ensued.” Then, by the reluct-

ant admission of the Chief Magistrate, there was a counter-movement, at once *illegal* and *reprehensible*. I thank thee, President, for teaching me these words; and I now put them in the front of this exposition, as in themselves a confession. Sir, this "illegal and reprehensible counter-movement" is none other than the dreadful crime—under an apologetic *alias*—by which, through successive invasions, slavery has been forcibly planted in this Territory.

Next to this presidential admission must be placed the details of the invasions, which I now present as not only "illegal and reprehensible," but also unquestionable evidence of the resulting crime.

The violence, for some time threatened, broke forth on the 29th November, 1854, at the first election of a delegate to Congress, when companies from Missouri, amounting to upwards of one thousand, crossed into Kansas, and, with force and arms, proceeded to vote for Mr. Whitfield, the candidate of slavery. An eye-witness, General Pomeroy, of superior intelligence and perfect integrity, thus describes this scene:

"The first ballot-box that was opened upon our virgin soil, was closed to us by overpowering numbers and impending force. So bold and reckless were our invaders, that they cared not to conceal their attack. They came upon us not in the guise of voters, to steal away our franchise, but boldly and openly, to snatch it with a strong hand. They came directly from their own homes, and in compact and organized bands, with arms in hand and provisions for the expedition, marched to our polls, and when their work was done, returned whence they came."

Here was an outrage at which the coolest blood of patriotism boils. Though, for various reasons unnecessary to develop, the busy settlers allowed the election to pass uncontested, still the means employed were none the less "illegal and reprehensible."

This infliction was a significant prelude to the grand invasion of the 30th March, 1855, at the election of the first Territorial legislature under the organic law, when an armed multitude from Missouri entered the Territory, in larger numbers than General Taylor commanded at Buena Vista, or than General Jackson had within his lines at New Orleans—larger far than our fathers rallied on Bunker Hill. On they came as an "army with banners," organized in companies, with officers, munitions, tents, and provisions, as though marching upon a foreign foe, and breathing loud-mouthed threats that they would carry their purpose, if need be, by the bowie-knife and revolver. Among them, according to his own confession, was David R. Atchison, belted with the vulgar arms of his vulgar comrades. Arrived at their several destinations on the night before the election, the invaders pitched their tents, placed their sentries, and waited for the coming day. The same trust-worthy eye-witness, whom I have already quoted, says, of one locality:

"Baggage-wagons were there with arms and ammunition enough for a protracted fight, and among them two brass field-pieces, ready charged. They came with drums beating and flags flying, and their leaders were of the most prominent and conspicuous men of their State."

Of another locality he says:

"The invaders came together in one armed and organized body, with trains of fifty wagons, besides horsemen, and, the night before election, pitched their camp in the vicinity of the polls; and, having appointed their own judges in place of those who,

from intimidation or otherwise, failed to attend, they voted without any proof of residence."

With this force they were able, on the succeeding day, in some places, to intimidate the judges of elections; in others, to substitute judges of their own appointment; in others, to wrest the ballot-boxes from their rightful possessors, and everywhere to exercise a complete control of the election, and thus, by a preternatural audacity of usurpation, impose a legislature upon the free people of Kansas. Thus was conquered the Sebastopol of that Territory!

But it was not enough to secure the legislature. The election of a member of Congress recurred on the 2d October, 1855, and the same foreigners, who had learned their strength, again manifested it. Another invasion, in controlling numbers, came from Missouri, and once more forcibly exercised the electoral franchise in Kansas.

At last, in the latter days of November, 1855, a storm, long brewing, burst upon the heads of the devoted people. The ballot-boxes had been violated, and a legislature installed, which had proceeded to carry out the conspiracy of the invaders; but the good people of the Territory, born to freedom, and educated as American citizens, showed no signs of submission. Slavery, though recognised by pretended law, was in many places practically an outlaw. To the lawless borderers, this was hard to bear; and, like the Heathen of old, they raged, particularly against the town of Lawrence, already known, by the firmness of its principles and the character of its citizens, as the citadel of the good cause. On this account they threatened, in their peculiar language, to "wipe it out." Soon the hostile power was gathered for this purpose. The wickedness of this invasion was enhanced by the way in which it began. A citizen of Kansas, by the name of Dow, was murdered by one of the partisans of slavery, under the name of "law and order." Such an outrage naturally aroused indignation and provoked threats. The professors of "law and order" allowed the murderer to escape; and, still further to illustrate the irony of the name they assumed, seized the friend of the murdered man, whose few neighbors soon rallied for his rescue. This transaction, though totally disregarded in its chief front of wickedness, became the excuse for unprecedented excitement. The weak governor, with no faculty higher than servility to slavery—whom the President, in his official delinquency, had appointed to a trust worthy only of a well-balanced character—was frightened from his propriety. By proclamation he invoked the Territory. By telegraph he invoked the President. The Territory would not respond to his senseless appeal. The President was dumb; but the proclamation was circulated throughout the border counties of Missouri, and Platte, Clay, Carlisle, Sabine, Howard, and Jefferson, each of them, contributed a volunteer company, recruited from the road-sides, and armed with weapons which chance afforded—known as the "shot-gun militia"—with a Missouri officer as commissary general, dispensing rations, and another Missouri officer as general-in-chief, with two wagon loads of rifles belonging to Missouri, drawn by six mules, from its arsenal at Jefferson City; with seven pieces of cannon belonging to the United States, from its arsenal at Liberty; and this formidable force, amounting to

at least 1,800 men, terrible with threats, with oaths, and with whiskey, crossed the borders, and encamped in larger part at Wachterusa, over against the doomed town of Lawrence, which was now threatened with destruction. With these invaders was the governor, who by this act levied war upon the people he was sent to protect. In camp with him was the original Catiline of the conspiracy, while by his side was the docile chief justice and the docile judges. But this is not the first instance in which an unjust governor has found tools where he ought to have found justice. In the great impeachment of Warren Hastings, the British orator by whom it was conducted exclaims, in words strictly applicable to the misdeed I now arraign, 'Had he not the chief justice—the tamed and domesticated chief justice,—who waited on him like a familiar spirit?' Thus was this invasion countenanced by those who should have stood in the breach against it. For more than a week it continued, while deadly conflict seemed imminent. I do not dwell on the heroism by which it was encountered, or the mean retreat to which it was compelled; for that is not necessary to exhibit the crime which you are to judge. But I cannot forbear to add other additional features, furnished in the letter of a clergyman, written at the time, who saw and was a part of what he describes:

"Our citizens have been shot at, *and in two instances murdered*, our houses invaded, hayricks burnt, corn and other provisions plundered, cattle driven off, all communication cut off between us and the States, wagons on the way to us with provisions stopped and plundered, and the drivers taken prisoners, and we in hourly expectation of an attack. *Nearly every man has been in arms in the village.* Fortifications have been thrown up, by incessant labor, night and day. The sound of the drum and the tramp of armed men resounded through our streets, *families fleeing with their household goods for safety.* Day before yesterday the report of cannon was heard at our house from the direction of Leecompton. Last Thursday one of our neighbors—one of the most peaceable and excellent of men, from Ohio—on his way home was set upon by a gang of twelve men on horseback and shot down. Over eight hundred men are gathered under arms at Lawrence. As yet no act of violence has been perpetrated by those on our side. *No blood of retaliation stains our hands. We stand, and are ready to act purely in the defence of our homes and lives.*"

But the catalogue is not yet complete. On the 15th of December, when the people assembled to vote on the constitution then submitted for adoption—only a few days after the treaty of peace between the governor on one side and the town of Lawrence on the other—another and fifth irruption was made. But I leave all this untold; enough of these details has been given.

Five several times and more have these invaders entered Kansas in armed array, and thus five several times and more have they trampled upon the organic law of the Territory. But these extraordinary expeditions are simply the extraordinary witnesses to successive uninterrupted violence. They stand out conspicuous, but not alone. The spirit of evil, in which they had their origin, was wakeful and incessant. From the beginning, it hung upon the skirts of this interesting Territory; harrowing its peace, disturbing its prosperity, and keeping its inhabitants under the painful alarms of war. Thus was all security of person, of property, and of labor, overthrown; and when I urge this incontrovertible fact, I set forth a wrong which is small only by the side of the giant wrong, for the consummation of which all this was done. Sir, what is man—what is government—

without security ; in the absence of which, nor man nor government can proceed in development or enjoy the fruits of existence? Without security, civilization is cramped and dwarfed. Without security, there can be no true freedom. Nor shall I say too much, when I declare that security, guarded of course by its offspring, freedom, is the true end and aim of government. Of this indispensable boon the people of Kansas have thus far been despoiled—absolutely, totally. All this is aggravated by the nature of their pursuits, rendering them peculiarly sensitive to interruption, and at the same time attesting their innocence. They are, for the most part, engaged in the cultivation of the soil, which, from time immemorial, has been the sweet employment of undisturbed industry. Contented in the returns of bounteous nature, and the shade of his own trees, the husbandman is not aggressive ; accustomed to produce, and not to destroy, he is essentially peaceful, unless his home is invaded, when his arm derives vigor from the soil he treads, and his soul inspiration from the heavens beneath whose canopy he daily toils. And such are the people of Kansas, whose security has been overthrown. Scenes from which civilization averts her countenance, have been a part of their daily life. The border incursions, which, in barbarous ages or barbarous lands, have fretted and “harried” an exposed people, have been here renewed, with this peculiarity, that our border robbers do not simply levy black mail and drive off a few cattle, like those who acted under the inspiration of the Douglas of other days ; that they do not seize a few persons, and sweep them away into captivity, like the African slave-traders whom we brand as pirates ; but that they commit a succession of acts, in which all border sorrows and all African wrongs are revived together on American soil, and which, for the time being, annuls all protection of all kinds, and enslaves the whole Territory.

Private griefs mingle their poignancy with public wrongs. I do not dwell on the anxieties which families have undergone, exposed to sudden assault, and obliged to lie down to rest with the alarms of war ringing in their ears, not knowing that another day might be spared to them. Throughout this bitter winter, with the thermometer at thirty degrees below zero, the citizens of Lawrence have been constrained to sleep under arms, with sentinels treading their constant watch against surprise. But our souls are wrung by individual instances. In vain do we condemn the cruelties of another age—the refinements of torture to which men have been doomed—the rack and thumb-screw of the Inquisition, the last agonies of the regicide Ravallac—“Luke’s iron crown, and Damien’s bed of steel”—for kindred outrages have disgraced these borders. Murder has stalked—assassination has skulked in the tall grass of the prairie, and the vindictiveness of man has assumed unwonted forms. A preacher of the Gospel of the Saviour has been ridden on a rail, and then thrown into the Missouri, fastened to a log, and left to drift down its muddy, tortuous current. And lately we have had the tidings of that enormity without precedent—a deed without a name—where a candidate for the legislature was most brutally gashed with knives and hatchets, and then, after weltering in blood on the snow-clad earth, was trun-

dled along with gaping wounds, to fall dead in the face of his wife. It is common to drop a tear of sympathy over the trembling solitudes of our early fathers, exposed to the stealthy assault of the savage foe; and an eminent American artist has pictured this scene in a marble group of rare beauty, on the front of the national Capitol, where the uplifted tomahawk is arrested by the strong arm and generous countenance of the pioneer, while his wife and children find shelter at his feet; but now the tear must be dropped over the trembling solitudes of fellow-citizens, seeking to build a new State in Kansas, and exposed to the perpetual assault of murderous robbers, from Missouri. Hirelings, picked from the drunken spew and vomit of an uneasy civilization—in the form of men—

“Ay, in the catalogue ye go for men;
As hounds and gray-hounds, mongrels, spaniels, curs,
Shoughs, water-rugs, and demi-wolves, are called
All by the name of dogs:”

leashed together by secret signs and lodges, have renewed the incredible atrocities of the Assassins and of the Thugs; showing that blind submission of the Assassins to the Old Man of the Mountain, in robbing Christians on the road to Jerusalem, and showing the heartlessness of the Thugs, who, avowing that murder was their religion, way-laid travellers on the great road from Agra to Delhi; with the more deadly bowie-knife for the dagger of the Assassin, and the more deadly revolver for the noose of the Thug.

In these invasions, attended by the entire subversion of all security in this Territory, with the plunder of the ballot-box, and the pollution of the electoral franchise, I show simply the process in unprecedented crime. If that be the best government where an injury to a single citizen is resented as an injury to the whole State, then must our government forfeit all claim to any such eminence, while it leaves its citizens thus exposed. In the outrage upon the ballot-box, even without the illicit fruits which I shall soon exhibit, there is a peculiar crime of the deepest dye, though subordinate to the final crime, which should be promptly avenged. In countries where royalty is upheld, it is a special offence to rob the crown jewels, which are the emblems of that sovereignty before which the loyal subject bows; and it is treason to be found in adultery with the Queen, for in this way may a false heir be imposed upon the state; but in our Republic the ballot-box is the single priceless jewel of that sovereignty which we respect, and the electoral franchise, out of which are born the rulers of a free people, is the Queen whom we are to guard against pollution. In this plain presentment, whether as regards security, or as regards elections there is enough, surely, without proceeding further, to justify the intervention of Congress, most promptly and completely, to throw over this oppressed people the impenetrable shield of the constitution and laws. But the half is not yet told.

As every point in a wide-spread horizon radiates from a common centre, so everything said or done in this vast circle of crime radiates from the *One Idea*, that Kansas, at all hazards, must be made at slave State. In all the manifold wickednesses that have occurred

and in every successive invasion, this *One Idea* has been ever present, as the Satanic tempter—the motive power—the *causing cause*.

To accomplish this result, three things were attempted: *first*, by outrages of all kinds to drive the friends of freedom already there out of the Territory; *secondly*, to deter others from coming; and, *thirdly*, to obtain the complete control of the government. The process of driving out, and also of deterring, has failed. On the contrary, the friends of freedom there became more fixed in their resolves to stay and fight the battle, which they had never sought, but from which they disdained to retreat; while the friends of freedom elsewhere were more aroused to the duty of timely succors, by men and munitions of just self-defence.

But, while defeated in the first two processes proposed, the conspirators succeeded in the last. By the violence already portrayed at the election of the 30th March, when the polls were occupied by the armed hordes from Missouri, they imposed a legislature upon the Territory, and thus, under the iron mask of law, established a usurpation not less complete than any in history. That this was done, I proceed to prove. Here is the evidence:

1. Only in this way can this extraordinary expedition be adequately explained. In the words of Moliere, once employed by John Quincy Adams in the other House, *Que diable allaientils faire dans cette galere?* What did they go into the Territory for? If their purposes were peaceful, as has been suggested, why cannons, arms, flags, numbers, and all this violence? As simple citizens, proceeding to the honest exercise of the electoral franchise, they might have gone with nothing more than a pilgrim's staff. Philosophy always seeks a *sufficient cause*, and only in the *One Idea*, already presented, can a cause be found in any degree commensurate with this crime; and this becomes so only when we consider the mad fanaticism of slavery.

2. Public notoriety steps forward to confirm the suggestion of reason. In every place where truth can freely travel, it has been asserted and understood, that the legislature was imposed upon Kansas by foreigners from Missouri; and this universal voice is now received as undeniable verity.

3. It is also attested by the harangues of the conspirators. Here is what Stringfellow said *before* the invasion:

"To those who have qualms of conscience as to violating laws, State or National, the time has come when such impositions must be disregarded, as your rights and property are in danger; and I advise you, one and all, to enter every election district in Kansas, in defiance of Reeder and his vile myrmidons, and vote at the point of the bowie-knife and revolver. Neither give nor take quarter, as our case demands it. It is enough that the slaveholding interest wills it, from which there is no appeal. What right has Governor Reeder to rule Missourians in Kansas? His proclamation and prescribed oath must be repudiated. It is your interest to do so. Mind that slavery is established where it is not prohibited."

Here is what Atchison said *after* the invasion:

"Well, what next? Why, an election for members of the legislature to organize the Territory must be held. What did I advise you to do then? Why, meet them on their own ground, and beat them at their own game again; and cool and inclement as the weather was, I went over with a company of men. My object in going was not to vote. I had no right to vote, unless I had disfranchised myself in Missouri. I was not within two miles of a voting place. My object in going was not to vote, but to settle a difficulty between two of our candidates; and the abolitionists of the North said, and published it abroad, that Atchison was there with bowie-knives and revolvers, and by God 'twas true. I

never did go into that Territory—I never intend to go into that Territory—without being prepared for all such kind of cattle. Well, we beat them, and Governor Reeder gave certificates to a majority of all the members of both houses, and then, after they were organized, as everybody will admit, they were the only competent persons to say who were, and who were not, members of the same."

4. It is confirmed by the cotemporaneous admission of the *Squatter Sovereign*, a paper published at Atchison, and at once the organ of the President and of these borderers, which, under date of April 1, thus recounts the victory :

"INDEPENDENCE, [MISSOURI,] March 31, 1855.

"Several hundred emigrants from Kansas have just entered our city. They were preceded by the Westport and Independence brass bands. They came in at the west side of the public square, and proceeded entirely around it, the bands cheering us with fine music, and the emigrants with good news. Immediately following the bands were about two hundred horsemen in regular order; following these were one hundred and fifty wagons, carriages, &c. They gave repeated cheers for Kansas and Missouri. They reported that not an anti-slavery man will be in the legislature of Kansas. *We have made a clean sweep.*"

5. It is also confirmed by the cotemporaneous testimony of another paper, always faithful to slavery, the *New York Herald*, in the letter of a correspondent from Brunswick, in Missouri, under date of April 20, 1855 :

"From five to seven thousand men started from Missouri to attend the election, some to remove, but the most to return to their families, with an intention, if they liked the Territory, to make it their permanent abode at the earliest moment practicable. But they intended to vote. The Missourians were, many of them, Douglas men. There were one hundred and fifty voters from this county, one hundred and seventy-five from Howard, one hundred from Cooper. Indeed, every county furnished its quota; and when they set out it looked like an army." * * * "They were armed."

"And, as there were no houses in the Territory, they carried tents. Their mission was a peaceable one—to vote, and to drive down stakes for their future homes. After the election, some one thousand five hundred of the voters sent a committee to Mr. Reeder to ascertain if it was his purpose to ratify the election. He answered that it was, and said the majority at an election must carry the day. But it is not to be denied that the one thousand five hundred, apprehending that the governor might attempt to play the tyrant—since his conduct had already been insidious and unjust—wore on their hats bunches of hemp. They were resolved, if a tyrant attempted to trample upon the rights of the sovereign people, to hang him."

6. It is again confirmed by the testimony of a lady, who for five years has lived in western Missouri, and thus writes in a letter published in the *New Haven Register* :

"MIAMI, SALINE COUNTY, November 26, 1855.

"You ask me to tell you something about the Kansas and Missouri troubles. Of course you know in what they have originated. *There is no denying that the Missourians have expended more than one hundred thousand dollars in money, and as much or more in time. Up to this time, the border counties of Missouri have upheld and maintained the rights and interests of the South in this struggle, unassisted, and not unsuccessfully.* But the abolitionists, staking their all upon the Kansas issue, and hesitating at no means, fair or foul, are moving heaven and earth to render that beautiful Territory a *free State.*"

7. And it is confirmed still further by the circular of the Emigration Society of Lafayette, in Missouri, dated as late as 25th March, 1856, in which the efforts of Missourians are openly confessed :

"The western counties of Missouri have for the last two years been heavily taxed, both in money and time, in fighting the battles of the South. *Lafayette county alone has expended more than one hundred thousand dollars in money, and as much or more in time. Up to this time, the border counties of Missouri have upheld and maintained the rights and interests of the South in this struggle, unassisted, and not unsuccessfully.* But the abolitionists, staking their all upon the Kansas issue, and hesitating at no means, fair or foul, are moving heaven and earth to render that beautiful Territory a *free State.*"

Here, also, is complete admission of the usurpation, by the *Intelligencer*, a leading paper of St. Louis, Missouri, made in the ensuing summer :

"Atchison and Stringfellow, with their Missouri followers, overwhelmed the settlers in Kansas, browbeat and bullied them, and took the government from their hands. Missouri votes elected the present body of men who insult public intelligence and popular rights by styling themselves 'the legislature of Kansas.' This body of men are helping themselves to fat speculations, by locating the 'seat of government' and getting town lots for their votes. They are passing laws disfranchising all the citizens of Kansas who do not believe negro slavery to be a Christian institution and a national blessing. They are proposing to punish with imprisonment the utterance of views inconsistent with their own. And they are trying to perpetuate their preposterous and infernal tyranny by appointing for a term of years creatures of their own as commissioners, in every county, to lay and collect taxes, and see that the laws they are passing are faithfully executed. Has this age anything to compare with these acts in audacity?"

9. In harmony with all these is the authoritative declaration of Governor Reeder, in a speech addressed to his neighbors at Easton, Pennsylvania, at the end of April, 1855, and immediately afterwards published in the *Washington Union* :

"It was indeed too true that Kansas had been invaded, conquered, subjugated, by an armed force from beyond her borders, led on by a fanatical spirit, trampling under foot the principles of the Kansas bill and the right of suffrage."

10. And in similar harmony is the complaint of the people of Kansas, in a public meeting at Big Springs, on the 5th September, 1855, embodied in these words :

"Resolved, That the body of men who for the last two months have been passing laws for the people of our Territory, moved, counseled, and dictated to by the demagogues of Missouri, are to us a foreign body, representing only the lawless invaders who elected them, and not the people of the Territory—that we repudiate their action, as the monstrous consummation of an act of violence, usurpation, and fraud unparalleled in the history of the Union, and worthy only of men unfitted for the duties and regardless of the responsibilities of republicans."

11. And finally, by the official minutes, which have been laid on our table by the President, the invasion, which ended in the usurpation, is clearly established ; but the effect of this testimony has been so amply exposed by the senator from Vermont, [Mr. COLLAMER,] in his able and indefatigable argument, that I content myself with simply referring to it.

On this cumulative, irresistible evidence, in concurrence with the antecedent history, I rest. And yet senators here have argued that this cannot be so—precisely as the conspiracy of Catiline was doubted in the Roman Senate. *Non nulli sunt in hoc ordine, qui aut ea, quæ imminet, non vident ; aut ea, quæ vident, dissimulant ; qui spem Catilinæ mollioribus sententiis aluerunt, conjurationemque nascentem non credendo corroboraverunt.* As I listened to the senator from Illinois, while he painfully strove to show that there was no usurpation, I was reminded of the effort by a distinguished logician, in a much admired argument, to prove that Napoleon Bonaparte never existed. And permit me to say, that the fact of his existence is not placed more completely above doubt than the fact of this usurpation. This I assert on the proofs already presented. But confirmation comes almost while I speak. The columns of the public press are now daily filled with testimony, solemnly taken before the committee of Congress in Kansas, which shows, in awful light, the vio-

lence ending in the usurpation. Of this I may speak on some other occasion. Meanwhile, I proceed with the development of the crime.

The usurping legislature assembled at the appointed place in the interior, and then at once, in opposition to the veto of the governor, by a majority of two-thirds, removed to the Shawnee Mission, a place in most convenient proximity to the Missouri borderers, by whom it had been constituted, and whose tyrannical agent it was. The statutes of Missouri, in all their text, with their divisions and sub-divisions, were adopted bodily; and with such little local adaptation, that the word "State" in the original is not even changed to "Territory," but is left to be corrected by an explanatory act. But, all this general legislation was entirely subordinate to the special act, entitled "An act to punish offences against slave property," in which the one idea, that provoked this whole conspiracy, is at last embodied in legislative form, and human slavery openly recognised on free soil, under the sanction of pretended law. This act of thirteen sections is in itself a *dance of death*. But its complex completeness of wickedness without a parallel, may be partially conceived when it is understood, that in three sections only of it is the penalty of death denounced no less than forty-eight different times, by as many changes of language, against the heinous offence, described in forty-eight different ways, of interfering with what does not exist in the Territory, and under the constitution cannot exist there—I mean property in human flesh. Thus is liberty sacrificed to slavery, and death summoned to sit at the gates as guardian of the wrong.

But the work of usurpation was not perfected even yet. It had already cost too much to be left at any hazard.

———"To be thus was nothing;
But to be safely thus!"

Such was the object. And this could not be, except by the entire prostration of all the safeguards of human rights. The liberty of speech, which is the very breath of a republic; the press, which is the terror of wrong-doers; the bar, through which the oppressed beards the arrogance of law; the jury, by which right is vindicated;—all these must be struck down, while officers are provided, in all places, ready to be the tools of this tyranny; and then, to obtain final assurance that their crime was secure, the whole usurpation, stretching over the Territory, must be fastened and riveted by legislative bolts, spikes, and screws, *so as to defy all efforts at change through the ordinary forms of law*. To this work, in its various parts, were bent the subtlest energies; and never, from Tubal Cain to this hour, was any fabric forged with more desperate skill and completeness.

Mark, sir, three different legislative enactments, which constitute part of this work. *First*, according to one act, all who deny, by spoken or written word, "the right of persons to hold slaves in this Territory," are denounced as felons, to be punished by imprisonment at hard labor for a term not less than two years—it may be for life. And to show the extravagance of this injustice, it has been well put by the senator from Vermont [Mr. COLLAMER,] that should the senator from Michigan [Mr. CASS,] who believes that slavery cannot exist in a Territory unless introduced by express legislative acts, venture there

with his moderate opinions, his doom must be that of a felon! To this extent are the great liberties of speech and of the press subverted. *Secondly*, by another act, entitled "An act concerning attorneys-at-law," no person can practice as an attorney unless he *shall obtain a license* from the Territorial courts—which, of course, a tyrannical discretion will be free to deny; and after obtaining such license, he is constrained to take an oath not only "to support" the constitution of the United States, but also "to support and sustain"—mark here the reduplication—the Territorial act and the fugitive slave bill; thus erecting a test for the function of the bar, calculated to exclude citizens who honestly regard that latter legislative enormity as unfit to be obeyed. And, *thirdly*, by another act, entitled "An act concerning jurors," all persons "conscientiously opposed to holding slaves," or "not admitting the right to hold slaves in the Territory," are excluded from the jury on every question, civil or criminal, arising out of asserted slave property; while, in all cases, the summoning of the jury is left, without one word of restraint, to "the marshal, sheriff, or other officer," who are thus free to pack it according to their tyrannical discretion.

For the ready enforcement of all statutes against human freedom, the President had already furnished a powerful quota of officers in the governor, chief justice, judges, secretary, attorney, and marshal. The legislature completed this part of the work, by constituting, in each county, a *board of commissioners*, composed of two persons, associated with the probate judge, whose duty it is "to appoint a county treasurer, coroner, justices of the peace, constables, and *all other officers* provided for by law;" and then proceeded to the choice of this very board—thus delegating and diffusing their usurped power, and tyrannically imposing upon the Territory a crowd of officers, in whose appointment the people have had no voice, directly or indirectly.

And still the final inexorable work remained. A legislature, renovated in both branches, could not assemble until 1858; so that, during this long intermediate period, this whole system must continue in the likeness of law, unless overturned by the federal government, or, in default of such interposition, by a generous uprising of an oppressed people. But it was necessary to guard against the possibility of change, even tardily, at a future election; and this was done by two different acts; under the *first* of which, all who will not take the oath to support the fugitive slave bill are excluded from the elective franchise; and under the *second* of which, all others are entitled to vote who shall tender a tax of one dollar to the sheriff on the day of election; thus, by provision of Territorial law, disfranchising all opposed to slavery, and at the same time opening the door to the votes of the invaders; by an unconstitutional shibboleth, excluding from the polls the mass of actual settlers, and, by making the franchise depend upon a petty tax only, admitting to the polls the mass of borderers from Missouri. Thus, by tyrannical forethought, the usurpation not only fortified all that it did, but assumed a *self-perpetuating* energy.

Thus was the crime consummated. Slavery now stands erect, clanking its chains on the Territory of Kansas, surrounded by a code of death, and trampling upon all cherished liberties, whether of speech, the press, the bar, the trial by jury, or the electoral franchise.

And, sir, all this has been done, not merely to introduce a wrong which in itself is a denial of all rights, and in dread of which a mother has lately taken the life of her offspring; not merely, as has been sometimes said, to protect slavery in Missouri, since it is futile for this State to complain of freedom on the side of Kansas, when freedom exists without complaint on the side of Iowa, and also on the side of Illinois; but it has been done for the sake of political power, in order to bring two new slaveholding senators upon this floor, and thus to fortify in the national government the desperate chances of a waning oligarchy. As the ship, voyaging on pleasant summer seas, is assailed by a pirate crew, and robbed for the sake of its doubloons and dollars—so is this beautiful Territory now assailed in its peace and prosperity, and robbed, in order to wrest its political power to the side of slavery. Even now the black flag of the land pirates from Missouri waves at the mast-head; in their laws you hear the pirate yell, and see the flash of the pirate knife; while, incredible to relate! the President, gathering the slave power at his back, testifies a pirate sympathy.

Sir, all this was done in the name of popular sovereignty. And this is the close of the tragedy. Popular sovereignty, which, when truly understood, is a fountain of just power, has ended in popular slavery; not merely in the subjection of the unhappy African race, but of this proud Caucasian blood, which you boast. The profession with which you began, of *all by the people*, has been lost in the wretched reality of *nothing for the people*. Popular sovereignty, in whose deceitful name plighted faith was broken, and an ancient landmark of freedom was overturned, now lifts itself before us like Sin, in the terrible picture of Milton:

“That seemed a woman to the waist, and fair;
But ended foul in many a scaly fold,
Voluminous and vast! a serpent arm’d
With mortal sting: about her middle round
A cry of hell-hounds never ceasing bark’d
With wide Cerberian mouths, full loud, and rung
A hideous peal; yet, when they list, would creep,
If aught disturb’d their noise, into her womb,
And kennel there; yet there still bark’d and howl’d
Within, unseen.”

The image is complete at all points; and, with this exposure, I take my leave of the crime against Kansas.

II. Emerging from all the blackness of this crime, in which we seem to have been lost, as in a savage wood, and turning our backs upon it, as upon desolation and death, from which, while others have suffered, we have escaped, I come now to the apologies which the crime has found. Sir, well may you start at the suggestion that such a series of wrongs, so clearly proved by various testimony, so openly confessed by the wrong-doers, and so widely recognised throughout the country, should find apologies. But the partisan spirit now, as in other days, hesitates at nothing. The great crimes of history have never been without apologies. The massacre of St. Bartholomew, which you now instinctively condemn, was, at the time, applauded in high quarters, and even commemorated by a Papal medal, which may still be procured at Rome; as the crime against Kansas, which is

hardly less conspicuous in dreadful eminence, has been shielded on this floor by extenuating words, and even by a Presidential message, which, like the Papal medal, can never be forgotten in considering the madness and perversity of men.

Sir, the crime cannot be denied. The President himself has admitted "illegal and reprehensible" conduct. To such conclusion he was compelled by irresistible evidence; but what he mildly describes I openly arraign. Senators may affect to put it aside by a sneer; or to reason it away by figures; or to explain it by a theory, such as desperate invention, has produced on this floor, that the Assassins and Thugs of Missouri were in reality citizens of Kansas; but all these efforts, so far as made, are only tokens of the weakness of the cause, while to the original crime they add another offence of false testimony against innocent and suffering men. But the apologies for the crime are worse than the efforts at denial. In cruelty and heartlessness they identify their authors with the great transgression.

They are four in number, and four-fold in character. The first is the Apology *Tyrannical*; the second, the Apology *Imbecile*; the third, the Apology *Absurd*; and the fourth, the Apology *Infamous*. This is all. Tyranny, imbecility, absurdity, and infamy, all unite to dance, like the weird sisters, about this crime.

The Apology *Tyrannical* is founded on the mistaken act of Governor Reeder in authenticating the usurping legislature, by which it is asserted that, whatever may have been the actual force or fraud in its election, the people of Kansas are effectually concluded, and the whole proceeding is placed under the formal sanction of law. According to this assumption, complaint is now in vain, and it only remains that Congress should sit and hearken to it, without correcting the wrong, as the ancient tyrant listened and granted no redress to the human moans that issued from the heated brazen bull, which subtle cruelty had devised. This I call the apology of technicality inspired by tyranny.

The facts on this head are few and plain. Governor Reeder, after allowing only five days for objections to the returns—a space of time unreasonably brief in that extensive Territory—declared a majority of the members of the council and of the house of representatives "duly elected," withheld certificates from certain others because of satisfactory proof that they were not duly elected, and appointed a day for new elections to supply these vacancies. Afterwards, by formal message, he recognised the legislature as a legal body, and when he vetoed their act of adjournment to the neighborhood of Missouri, he did it simply on the ground of the illegality of such an adjournment under the organic law. Now, to every assumption founded on these facts, there are two satisfactory replies: *first*, that no certificate of the governor can do more than authenticate a subsisting legal act, without of itself infusing legality where the essence of legality is not already; and, *secondly*, that violence or fraud, wherever disclosed, vitiates completely every proceeding. In denying these principles you place the certificate above the thing certified, and give a perpetual lease to violence and fraud, merely because at an ephemeral moment they were unquestioned. This will not do.

Sir, I am no apologist for Governor Reeder. There is sad reason to believe that he went to Kansas originally as the tool of the President; but his simple nature, nurtured in the atmosphere of Pennsylvania, revolted at the service required, and he turned from his patron to duty. Grievously did he err in yielding to the legislature any act of authentication, but he has in some measure answered for this error by determined efforts since to expose the utter illegality of that body, which he now repudiates entirely. It was said of certain Roman emperors, who did infinite mischief in their beginnings, and infinite good towards their ends, that they should never have been born, or never died; and I would apply the same to the official life of this Kansas governor. At all events, I dismiss the apology founded on his acts, as the utterance of tyranny by the voice of law, transcending the declaration of the pedantic judge in the British Parliament, on the eve of our Revolution, that our fathers, notwithstanding their complaints, were in reality represented in Parliament, inasmuch as their lands, under the original charters, were held "in common socage, as of the manor of Greenwich in Kent," which, being duly represented, carried with it all the colonies. Thus in other ages has tyranny assumed the voice of law.

Next comes the Apology *Imbecile*, which is founded on the alleged want of power in the President to arrest this crime. It is openly asserted that, under the existing laws of the United States, the Chief Magistrate had no authority to interfere in Kansas for this purpose. Such is the broad statement, which, even if correct, furnishes no apology for any proposed ratification of the crime, but which is in reality untrue; and this, I call the apology of imbecility.

In other matters, no such ostentatious imbecility appears. Only lately, a vessel of war in the Pacific has chastised the cannibals of the Fejee islands, for alleged outrages on American citizens. But no person of ordinary intelligence will pretend that American citizens in the Pacific have received wrongs from these cannibals comparable in atrocity to those received by American citizens in Kansas. Ah, sir, the interests of slavery are not touched by any chastisement of the Fejees!

Constantly we are informed of efforts at New York, through the agency of the government, and sometimes only on the breath of suspicion, to arrest vessels about to sail on foreign voyages in violation of our neutrality laws or treaty stipulations. Now, no man familiar with the cases will presume to suggest that the urgency for these arrests was equal to the urgency for interposition against these successive invasions from Missouri. But the slave power is not disturbed by such arrests at New York!

At this moment, the President exults in the vigilance with which he has prevented the enlistment of a few soldiers, to be carried off to Halifax, in violation of our territorial sovereignty, and England is bravely threatened, even to the extent of a rupture of diplomatic relations, for her endeavor, though unsuccessful, and at once abandoned. Surely, no man in his senses will urge that this act was anything but trivial by the side of the crime against Kansas. But the slave power is not concerned in this controversy.

Thus, where the slave power is indifferent, the President will see

that the laws are faithfully executed; but, in other cases, where the interests of slavery are at stake, he is controlled absolutely by this tyranny, ready at all times to do, or not to do, precisely as it dictates. Therefore it is, that Kansas is left a prey to the propagandists of slavery, while the whole treasury, the army and navy of the United States, are lavished to hunt a single slave through the streets of Boston. You have not forgotten the latter instance; but I choose to refresh it in your minds.

As long ago as 1851, the War Department and Navy Department concurred in placing the forces of the United States, near Boston, at the command of the marshal, if needed, for the enforcement of an act of Congress, which had no support in the public conscience, as I believe it has no support in the Constitution; and thus these forces were degraded to the loathsome work of slave-hunters. More than three years afterwards, an occasion arose for their intervention. A fugitive from Virginia, who for some days had trod the streets of Boston as a freeman, was seized as a slave. The whole community was aroused, while Bunker Hill and Faneuil Hall quaked with responsive indignation. Then, sir, the President, anxious that no tittle of slavery should suffer, was curiously eager in the enforcement of the statute. The dispatches between him and his agents in Boston attest his zeal. Here are some of them:

Boston, May 27, 1854.

To the President of the United States:

In consequence of an attack upon the court-house, last night, for the purpose of rescuing a fugitive slave, under arrest, and in which one of my own guards was killed, *I have availed myself of the resources of the United States, placed under my control by letter from the War and Navy Departments in 1851, and now have two companies of troops, from Fort Independence, stationed in the court-house. Everything is now quiet. The attack was repulsed by my own guard.*

WATSON FREEMAN,
United States Marshal, Boston, Mass.

—
WASHINGTON, May 27, 1854.

Your conduct is approved. The law must be executed.

FRANKLIN PIERCE.

WATSON FREEMAN, *United States Marshal, Boston, Mass.*

—
WASHINGTON, May 30, 1854.

What is the state of the case of Burns?

SIDNEY WEBSTER,
Private Secretary of the President.

Hon. B. F. HALLETT, *Boston, Mass.*

—
WASHINGTON, May 31, 1854.

Incur any expense deemed necessary by the marshal and yourself, for city military, or otherwise, to insure the execution of the law.

FRANKLIN PIERCE.

B. F. HALLETT, *United States Attorney, Boston, Mass.*

But the President was not content with such forces as were then on hand in the neighborhood. Other posts also were put under requisition. Two companies of national troops, stationed at New York, were kept under arms, ready at any moment to proceed to Boston; and the adjutant general of the army was directed to repair to the scene, there to superintend the execution of the statute. All this

was done for the sake of slavery; but during the long months of menace suspended over the free soil of Kansas, breaking forth in successive invasions, the President has folded his hands in complete listlessness, or, if he has moved at all, it has been only to encourage the robber propagandists.

And now the intelligence of the country is insulted by the apology, that the President had no power to interfere. Why, sir, to make this confession is to confess our government to be a practical failure—which I will never do, except, indeed, as it is administered now. No, sir, the imbecility of the chief magistrate shall not be charged upon our American institutions. Where there is a will, there is a way; and, in his case, had the will existed, there would have been a way, easy and triumphant, to guard against the crime we now deplore. His powers were in every respect ample, and this I will prove by the statute-book. By the act of Congress of 28th February, 1795, it is enacted, “that whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals,” the President “may call forth the militia.” By the supplementary act of 3d March, 1807, in all cases where he is authorized to call forth the militia “for the purpose of causing the laws to be duly executed,” the President is further empowered, in any State or *Territory*, “to employ for the same purposes such part of the land or naval force of the United States as shall be judged necessary.” There is the letter of the law, and you will please to mark the power conferred. In no case where the *laws of the United States are opposed*, or their execution *obstructed*, is the President constrained to wait for the requisition of a governor, or even the petition of a citizen. Just so soon as he learns the fact, no matter by what channel, he is invested by law with full power to counteract it. True it is, that when the *laws of a State* are obstructed, he can interfere only on the application of the legislature of such State, or of the executive, when the legislature cannot be convened; but when the federal laws are obstructed no such preliminary application is necessary. It is his high duty, under his oath of office, to see that they are executed, and, if need be, by the federal forces.

And, sir, this is the precise exigency that has arisen in Kansas—precisely this; nor more, nor less. The act of Congress, constituting the very *organic law* of the Territory, which, in peculiar phrase, as if to avoid ambiguity, declares, as “its true intent and meaning,” that the people thereof “shall be left perfectly free to form and regulate their domestic institutions in their own way,” has been from the beginning *opposed* and *obstructed* in its execution. If the President had power to employ the federal forces in Boston, when he supposed the fugitive slave bill was obstructed, and merely in anticipation of such obstruction, it is absurd to say that he had not power in Kansas, when, in the face of the whole country, the very *organic law* of the Territory was trampled under foot by successive invasions, and the freedom of the people there overthrown. To assert ignorance of this obstruction—premeditated, long-continued, and stretching through

months—attributes to him not merely imbecility, but idiocy. And thus do I dispose of this apology.

Next comes the Apology *Absurd*, which is, indeed, in the nature of a pretext. It is alleged that a small printed pamphlet, containing the “constitution and ritual of the grand encampment and regiments of the Kansas legion,” was taken from the person of one George F. Warren, who attempted to avoid detection by chewing it. The oaths and grandiose titles of the pretended legion have all been set forth, and this poor mummery of a secret society, which existed only on paper, has been gravely introduced on this floor, in order to extenuate the crime against Kansas. It has been paraded in more than one speech, and even stuffed into the report of the committee.

A part of the obligations assumed by the members of this legion shows why it has been thus pursued, and also attests its innocence. It is as follows :

“I will never knowingly propose a person for membership in this order *who is not in favor of making Kansas a free State*, and whom I feel satisfied will exert his entire influence to bring about this result. I will support, maintain, and abide by any honorable movement made by the organization to secure this great end, *which will not conflict with the laws of the country and the Constitution of the United States.*”

Kansas is to be made a free State by an honorable movement which will not conflict with the laws and the Constitution. That is the object of the organization, declared in the very words of the initiatory obligation. Where is the wrong in this? What is there here which can cast reproach, or even suspicion, upon the people of Kansas? Grant that the legion was constituted, can you exact from it any apology for the original crime, or for its present ratification? Secret societies, with their extravagant oaths, are justly offensive; but who can find in this mistaken machinery any excuse for the denial of all rights to the people of Kansas? All this I say on the supposition that the society was a reality, which it was not. Existing in the fantastic brains of a few persons only, it never had any practical life. It was never organized. The whole tale, with the mode of obtaining the copy of the constitution, is at once a cock-and-bull story, and a mare's nest; trivial as the former, absurd as the latter, and to be dismissed, with the apology founded upon it, to the derision which triviality and absurdity justly receive.

It only remains under this head that I should speak of the Apology *Infamous*, founded on false testimony against the Emigrant Aid Company, and assumptions of duty more false than the testimony. Defying truth and mocking decency, this apology excels all others in futility and audacity, while, from its utter hollowness, it proves the utter impotence of the conspirators to defend their crime. Falsehood, always *infamous*, in this case arouses peculiar scorn. An association of sincere benevolence, faithful to the Constitution and laws, whose only fortifications are hotels, school-houses, and churches; whose only weapons are saw-mills, tools, and books; whose mission is peace and good will, has been falsely assailed on this floor, and an errand of blameless virtue has been made the pretext for an unpardonable crime. Nay, more, the innocent are sacrificed, and the guilty set at liberty. They who seek to do the mission of the Saviour are scourged and cru-

cified, while the murderer Barabbas, with the sympathy of the chief priests, goes at large.

Were I to take council of my own feelings, I should dismiss this whole apology to the ineffable contempt which it deserves; but it has been made to play such a part in this conspiracy that I feel it a duty to expose it completely.

Sir, from the earliest times men have recognized the advantages of organization as an effective agency in promoting works of peace or war. Especially at this moment, there is no interest, public or private, high or low, of charity or trade, of luxury or convenience, which does not seek its aid. Men organize to rear churches and to sell thread; to build schools and to sail ships; to construct roads and to manufacture toys; to spin cotton and to print books; to weave cloths and to quicken harvests; to provide food and to distribute light; to influence public opinion and to secure votes; to guard infancy in its weakness, old age in its decrepitude, and womanhood in its wretchedness; and now, in all large towns, when death has come, they are buried by organized societies, and, emigrants to another world, they lie down in pleasant places, adorned by organized skill. To complain that this prevailing principle has been applied to living emigration is to complain of Providence and the irresistible tendencies implanted in man.

But this application of the principle is no recent invention, brought forth for an existing emergency. It has the best stamp of antiquity. It showed itself in the brightest days of Greece, where colonists moved in organized bands. It became a part of the mature policy of Rome, where bodies of men were constituted expressly for this purpose, *triumviri ad colonos deducendos*.—(Livy, xxxvii, § 46.) Naturally it has been accepted in modern times by every civilized State. With the sanction of Spain, an association of Genoese merchants first introduced slaves to this continent. With the sanction of France, the Society of Jesuits stretched their labors over Canada and the great lakes to the Mississippi. It was under the auspices of Emigrant Aid Companies that our country was originally settled, by the pilgrim fathers of Plymouth, by the adventurers of Virginia, and by the philanthropic Oglethorpe, whose "benevolence of soul," commemorated by Pope, sought to plant a free State in Georgia. At this day such associations, of an humbler character, are found in Europe, with offices in the great capitals, through whose activity emigrants are directed here.

For a long time, emigration to the west, from the northern and middle States, but particularly from New England, has been of marked significance. In quest of better homes, annually it has pressed to the unsettled lands, in numbers to be counted by tens of thousands; but this has been done heretofore with little knowledge, and without guide or counsel. Finally, when, by the establishment of a government in Kansas, the tempting fields of that central region were opened to the competition of peaceful colonization, and especially when it was declared that the question of freedom or slavery there was to be determined by the votes of actual settlers, then at once was organization enlisted as an effective agency in quickening and conducting the emi-

gration impelled thither, and, more than all, in providing homes for it on arrival there.

The company was first constituted under an act of the legislature of Massachusetts, 4th of May, 1854, some weeks prior to the passage of the Nebraska bill. The original act of incorporation was subsequently abandoned, and a new charter received in February, 1855, in which the objects of the society are thus declared:

"For the purpose of directing emigration westward and aiding in providing accommodations for the emigrants after arriving at their places of destination."

At any other moment an association for these purposes would have taken its place, by general consent, among the philanthropic experiments of the age; but crime is always suspicious, and shakes, like a sick man, merely at the pointing of a finger. The conspirators against freedom in Kansas now shook with tremor, real or affected. Their wicked plot was about to fail. To help themselves they denounced the Emigrant Aid Company, and their denunciations, after finding an echo in the President, have been repeated with much particularity on this floor in the formal report of your committee.

The falsehood of the whole accusation will appear in illustrative specimens.

A charter is set out, section by section, which, though originally granted, was subsequently abandoned, and is not in reality the charter of the company, but is materially unlike it.

The company is represented as "a powerful corporation, with a capital of five millions," when by its actual charter it is not allowed to hold property above one million, and, in point of fact, its capital has not exceeded one hundred thousand dollars.

Then, again, it is suggested, if not alleged, that this enormous capital, which I have already said does not exist, is invested in "cannon and rifles, in powder and lead, and implements of war," all of which, whether alleged or suggested, is absolutely false. The officers of the company authorize me to give to this whole pretension a point blank denial.

All these allegations are of small importance, and I mention them only because they show the character of the report, and also something of the quicksand on which the senator from Illinois has chosen to plant himself. But these are all capped by the unblushing assertion that the proceedings of the company were "in perversion of the plain provisions of an act of Congress;" and also another unblushing assertion, as "certain and undeniable," that the company was formed to promote certain objects, "regardless of the rights and wishes of the people, as guaranteed by the Constitution of the United States, and secured by their organic law," when it is certain and undeniable that the company has done nothing in perversion of any act of Congress, while to the extent of its power it has sought to protect the rights and wishes of the actual people of the Territory.

Sir, this company has violated in no respect the Constitution or laws of the land, not in the severest letter or slightest spirit. But every other imputation is equally baseless. It is not true, as the senator from Illinois has alleged, in order in some way to compromise the company, that it was informed before the public of the date fixed

for the election of the legislature. This statement is pronounced by the secretary, in a letter now before me, "an unqualified falsehood, not having even the shadow of a shade of truth for its basis." It is not true that men have been hired by the company to go to Kansas, for every emigrant who has gone under its direction has himself provided the means for his journey. Of course, sir, it is not true, as has been complained by the senator from South Carolina, with that proclivity to error which marks all his utterances, that men have been sent by the company "with one uniform gun, Sharpe's rifles," for it has supplied no arms of any kind to anybody. It is not true that the company has encouraged any fanatical aggression upon the people of Missouri, for it has counselled order, peace, forbearance. It is not true that the company has chosen its emigrants on account of their political opinions, for it has asked no questions with regard to the opinions of any whom it aids, and at this moment stands ready to forward those from the south as well as the north, while in the Territory all, from whatever quarter, are admitted to an equal enjoyment of its tempting advantages. It is not true that the company has sent persons merely to control elections, and not to remain in the Territory, for its whole action and all its anticipation of pecuniary profits are founded on the hope to stock the country with permanent settlers, by whose labor the capital of the company shall be made to yield its increase, and by whose fixed interest in the soil the welfare of all shall be promoted.

Sir, it has not the honor of being an abolition society, or of numbering among its officers abolitionists. Its president is a retired citizen, of ample means and charitable life, who has taken no part in the conflicts on slavery, and has never allowed his sympathies to be felt by abolitionists. One of its vice presidents is a gentleman from Virginia, with family and friends there, who has always opposed the abolitionists. Its generous treasurer, who is now justly absorbed by the objects of the company, has always been understood as ranging with his extensive connexions, by blood and marriage, on the side of that quietism which submits to all the tyranny of the slave power. Its directors are more conspicuous for wealth and science than for any activity against slavery. Among these is an eminent lawyer of Massachusetts, Mr. Chapman—personally known, doubtless, to some who hear me—who has distinguished himself by an austere conservatism, too natural to the atmosphere of courts, which does not flinch even from the support of the fugitive slave bill. In a recent address at a public meeting in Springfield this gentleman thus speaks for himself and his associates :

"I have been a director of the society from the first, and have kept myself well informed in regard to its proceedings. I am not aware that any one in this community ever suspected me of being an abolitionist; but I have been accused of being pro-slavery; and I believe many good people think I am quite too conservative on that subject. I take this occasion to say that all the plans and proceedings of the society have met my approbation; and I assert that it has never done a single act with which any political party or the people of any section of the country can justly find fault. The name of its president, Mr. Brown, of Providence, and of its treasurer, Mr. Lawrence, of Boston, are a sufficient guarantee in the estimation of intelligent men against its being engaged in any fanatical enterprise. Its stockholders are composed of men of all political parties except abolitionists. I am not aware that it has received the patronage of that class of our fellow-citizens, and I am informed that some of them disapprove of its proceedings."

The acts of the company have been such as might be expected from auspices thus severely careful at all points. The secret through which, with small means, it has been able to accomplish so much is, that, *as an inducement to emigration, it has gone forward and planted capital in advance of population.* According to the old immethodical system, this rule is reversed; and population has been left to grope blindly, without the advantage of fixed centers, with mills, schools, and churches, all calculated to soften the hardships of pioneer life, such as have been established beforehand in Kansas. Here, sir, is the secret of the Emigrant Aid Company. By this single principle, which is now practically applied for the first time in history, and which has the simplicity of genius, a business association at a distance, without a large capital, has become a beneficent instrument of civilization, exercising the functions of various societies, and in itself being a missionary society, a bible society, a tract society, an education society, and a society for the diffusion of the mechanic arts. I would not claim too much for this company; but I doubt if, at this moment, there is any society which is so completely philanthropic; and since its leading idea, like the light of a candle from which other candles are lighted without number, may be applied indefinitely, it promises to be an important aid to human progress. The lesson it teaches cannot be forgotten, and hereafter, wherever unsettled land exist, intelligent capital will lead the way, anticipating the wants of the pioneer, nay, doing the very work of the original pioneer, while, amidst well-arranged harmonies, a new community will arise, to become, by its example, a more eloquent preacher than any solitary missionary. In subordination to this essential idea is its humbler machinery for the aid of emigrants on their way, by combining parties, so that friends and neighbors might journey together; by purchasing tickets at wholesale, and furnishing them to individuals at the actual cost; by providing for each party a conductor familiar with the road, and, through these simple means, promoting the economy, safety, and comfort of the expedition. The number of emigrants it has directly aided, even thus slightly, in their journey, has been infinitely exaggerated. From the beginning of its operations down to the close of the last autumn, all its detachments from Massachusetts contained only thirteen hundred and twelve persons.

Such is the simple tale of the Emigrant Aid Company. Sir, not even suspicion can justly touch it. But it must be made a scapegoat. This is the decree which has gone forth. I was hardly surprised at this outrage, when it proceeded from the President, for, like Macbeth, he is stepped so far in, that returning were as tedious as go on; but I did not expect it from the senator from Missouri, (Mr. GEYER,) whom I had learned to respect for the general moderation of his views, and the name he has won in an honorable profession. Listening to him, I was saddened by the spectacle of the extent to which slavery will sway a candid mind to do injustice. Had any other interest been in question, that senator would have scorned to join in impeachment of such an association. His instincts as a lawyer, as a man of honor, and as a senator, would have forbidden; but the slave power, in enforcing its behests, allows no hesitation, and the senator surrendered.

In this vindication I content myself with a statement of facts, rather than an argument. It might be urged that Missouri had organized a propagandist emigration long before any from Massachusetts, and you might be reminded of the wolf in the fable, which complained of the lamb for disturbing the waters, when in fact the alleged offender was lower down on the stream. It might be urged, also, that South Carolina has lately entered upon a similar system, while one of her chieftains, in rallying recruits, has unconsciously attested to the cause in which he was engaged, by exclaiming, in the words of Satan, addressed to his wicked forces,

“Awake! arise! or be forever fallen!”*

But the occasion needs no such defences. I put them aside. Not on the example of Missouri, or the example of South Carolina, but on inherent rights, which no man, whether senator or President, can justly assail, do I plant this impregnable justification. It will not do, in specious phrases, to allege the right of every State to be free in its domestic policy from foreign interference, and then to assume such wrongful interference by this company. By the law and Constitution, we stand or fall; and that law and Constitution we have in no respect offended.

To cloak the overthrow of all law in Kansas, an assumption is now set up which utterly denies one of the plainest rights of the people everywhere. Sir, I beg senators to understand that this is a government of laws; and that, under these laws, the people have an incontestable right to settle any portion of our broad territory, and, if they choose, to propagate any opinions there not openly forbidden by the laws. If this were not so, pray, sir, by what title is the senator from Illinois, who is an emigrant from Vermont, propagating his disastrous opinions in another State? Surely he has no monopoly of this right. Others may do what he is doing, nor can the right be in any way restrained. It is as broad as the people; and it matters not whether they go in numbers small or great, with assistance or without assistance, under the auspices of societies or not under such auspices. If this were not so, then by what title are so many foreigners annually naturalized, under democratic auspices, in order to secure their votes for misnamed democratic principles? And if capital as well as combination cannot be employed, by what title do venerable associations exist, of ampler means and longer duration than any emigrant aid company, around which cluster the regard and confidence of the country—the Tract Society, a powerful corporation, which scatters its publications freely in every corner of the land—the Bible Society, an incorporated body, with large resources, which seeks to carry the Book of Life alike into Territories and States—the Missionary Society, also an incorporated body, with large resources, which sends its agents everywhere, at home and in foreign lands? By what title do all these exist?

Nay, sir, by what title does an insurance company in New York send its agents to open an office in New Orleans, and by what title

* Mr. EVANS, of South Carolina, here interrupted Mr. SUMNER, to say that he did not know of any such address. Mr. S. replied that it was taken from southern papers.

does Massachusetts capital contribute to the Hannibal and St. Joseph railroad in Missouri, and also to the copper mines in Michigan? The senator inveighs against the native American party; but his own principle is narrower than any attributed to them. They object to the influence of emigrants from abroad; he objects to the influence of American citizens at home when exerted in States or Territories where they were not born! The whole assumption is too audacious for respectful argument. But since a great right has been denied, the children of the free States, over whose cradles has shone the north star, owe it to themselves, to their ancestors, and to freedom itself, that this right should now be asserted to the fullest extent. By the blessing of God, and under the continued protection of the laws, they will go to Kansas, there to plant their homes, in the hope of elevating this Territory soon into the sisterhood of free States; and to such end they will not hesitate in the employment of all legitimate means, whether by companies of men or contributions of money, to swell a virtuous emigration, and they will justly scout any attempt to question this unquestionable right. Sir, if they failed to do this, they would be fit only for slaves themselves.

God be praised! Massachusetts, honored commonwealth that gives me the privilege to plead for Kansas on this floor, knows her rights, and will maintain them firmly to the end. This is not the first time in history that her public acts have been arraigned, and that her public men have been exposed to contumely. Thus was it when, in the olden time, she began the great battle whose fruits you all enjoy. But never yet has she occupied a position so lofty as at this hour. By the intelligence of her population—by the resources of her industry—by her commerce, cleaving every wave—by her manufactures, various as human skill—by her institutions of education, various as human knowledge—by her institutions of benevolence, various as human suffering—by the pages of her scholars and historians—by the voices of her poets and orators, she is now exerting an influence more subtile and commanding than ever before—shooting her far-darting rays wherever ignorance, wretchedness, or wrong prevail, and flashing light even upon those who travel far to persecute her. Such is Massachusetts; and I am proud to believe that you may as well attempt, with puny arm, to topple down the earth-rooted, heaven-kissing granite which crowns the historic sod of Bunker Hill, as to change her fixed resolves for freedom everywhere, and especially now for freedom in Kansas. I exult, too, that in this battle, which surpasses far in moral grandeur the whole war of the revolution, she is able to preserve her just eminence. To the first she contributed a larger number of troops than any other State in the Union, and larger than all the slave States together; and now to the second, which is not of contending armies, but of contending opinions, on whose issue hangs trembling the advancing civilization of the country, she contributes, through the manifold and endless intellectual activity of her children, more of that divine spark by which opinions are quickened into life than is contributed by any other State, or by all the States together, while her annual productive industry excels in value three times the whole vaunted cotton crop of the whole south.

Sir, to men on earth it belongs only to deserve success, not to secure it; and I know not how soon the efforts of Massachusetts will wear the crown of triumph. But it cannot be that she acts wrong for herself or children when in this cause she thus encounters reproach. No; by the generous souls who were exposed at Lexington; by those who stood arrayed at Bunker Hill; by the many from her bosom who, on all the fields of the first great struggle, lent their vigorous arms to the cause of all; by the children she has borne, whose names alone are national trophies, is Massachusetts now vowed irrevocably to this work. What belongs to the faithful servant she will do in all things, and Providence shall determine the result.

And here ends what I have to say of the four apologies for the crime against Kansas.

III. From this ample survey, where one obstruction after another has been removed, I now pass, in the third place, to the consideration of the *various remedies proposed*, ending with the TRUE REMEDY.

The remedy should be coextensive with the original wrong; and, since, by the passage of the Nebraska bill, not only Kansas, but also Nebraska, Minnesota, Washington, and even Oregon, have been opened to slavery, the original prohibition should be restored to its complete activity throughout these various Territories. By such a happy restoration, made in good faith, the whole country would be replaced in the condition which it enjoyed before the introduction of that dishonest measure. Here is the Alpha and the Omega of our aim in this immediate controversy. But no such extensive measure is now in question. The crime against Kansas has been special, and all else is absorbed in the special remedies for it. Of these I shall now speak.

As the apologies were four-fold, so are the remedies proposed four-fold, and they range themselves in natural order, under designations which so truly disclose their character as even to supersede argument. First, we have the remedy of tyranny; next the remedy of folly; next the remedy of injustice and civil war; and fourthly the remedy of justice and peace. There are the four caskets; and you are to determine which shall be opened by senatorial votes.

There is the *remedy of tyranny*, which, like its complement, the apology of tyranny—though espoused on this floor, especially by the senator from Illinois—proceeds from the President, and is embodied in a special message. It proposes to enforce obedience to the existing laws of Kansas, “whether federal or *local*,” when, in fact, Kansas has no “local” laws except those imposed by the usurpation from Missouri, and it calls for additional appropriations to complete this work of tyranny.

I shall not follow the President in his elaborate endeavor to pre-judge the contested election now pending in the House of Representatives, for this whole matter belongs to the privileges of that body, and neither the President nor the Senate has a right to intermeddle therewith. I do not touch it. But now, while dismissing it, I should not pardon myself if I failed to add, that any person who founds his claim to a seat in Congress on the pretended votes of hirelings from another State, with no home on the soil of Kansas, plays

the part of Anacharsis Cloots, who, at the bar of the French convention, undertook to represent nations that knew him not, or, if they knew him scorned him; with this difference, that in our American case, the excessive farce of the transaction cannot cover its tragedy. But all this I put aside to deal only with what is legitimately before the Senate.

I expose simply the tyranny which upholds the existing usurpation, and asks for additional appropriations. Let it be judged by an example, from which in this country there can be no appeal. Here is the speech of George III, made from the throne of Parliament, in response to the complaints of the Province of Massachusetts Bay, which, though smarting under laws passed by usurped power, had yet avoided all armed opposition, while Lexington and Bunker Hill still slumbered in rural solitude, unconscious of the historic kindred which they were soon to claim. Instead of Massachusetts Bay, in the royal speech, substitute Kansas, and the message of the President will be found fresh on the lips of the British king. Listen now to the words which, in opening Parliament, 30th of November, 1774, his Majesty, according to the official report, was pleased to speak:

"My Lords and Gentlemen:

"It gives me much concern that I am obliged, at the opening of this Parliament, to inform you that a most daring spirit of resistance and disobedience to the law still unhappily prevails in the Province of the Massachusetts Bay, and has in divers parts of it broke forth in fresh violences of a very criminal nature. These proceedings have been countenanced in other of my colonies, and unwarrantable attempts have been made to obstruct the commerce of this kingdom by unlawful combinations. I have taken such measures and given such orders as I have judged most proper and effectual for carrying into execution the laws which were passed in the last session of the late Parliament for the protection and security of the commerce of my subjects, and for the restoring and preserving peace, order, and good government, in the Province of the Massachusetts Bay."—*American Archives*, 4th series, vol. 1, p. 1465.

The king complained of a "daring spirit of resistance and disobedience to the law;" so also does the President. The king adds, that it has "broke forth in fresh violences of a very criminal nature;" so also does the President. The king declares that these proceedings have been "countenanced and encouraged in other of my colonies;" even so the President declares that Kansas has found sympathy in "remote States." The king inveighs against "unwarrantable measures" and "unlawful combinations;" even so inveighs the President. The king proclaims that he has taken the necessary steps "for carrying into execution the laws," passed in defiance of the constitutional rights of the colonies; even so the President proclaims that he shall "exert the whole power of the federal executive" to support the usurpation in Kansas. The parallel is complete. The message, if not copied from the speech of the king, has been fashioned on the same original block, and must be dismissed to the same limbo. I dismiss its tyrannical assumptions in favor of the usurpation. I dismiss also its petition for additional appropriations in the affected desire to maintain order in Kansas. It is not money or troops that you need there, but simply the good will of the President. That is all, absolutely. Let his complicity with the crime cease, and peace will be restored. For myself, I will not consent to wad the national artillery with fresh appropriation bills, when its murderous

hail is to be directed against the constitutional rights of my fellow-citizens.

Next comes the *remedy of folly*, which, indeed, is also a remedy of tyranny; but its folly is so surpassing as to eclipse even its tyranny. It does not proceed from the President. With this proposition he is not in any way chargeable. It comes from the senator from South Carolina, who, at the close of a long speech, offered it as his single contribution to the adjustment of this question, and who, thus far, stands alone in its support. It might, therefore, fitly bear his name; but that which I now give to it is a more suggestive synonym.

This proposition, nakedly expressed, is that the people of Kansas should be deprived of their arms. That I may not do the least injustice to the senator, I quote his precise words:

"The President of the United States is under the highest and most solemn obligations to interpose; and if I were to indicate the manner in which he should interpose in Kansas, I would point out the old common-law process. I would serve a warrant on Sharpe's rifles, and if Sharpe's rifles did not answer the summons, and come into court on a day certain, or if they resisted the sheriff, I would summon the *posse comitatus*, and would have Colonel Sumner's regiment to be a part of that *posse comitatus*."

Really, sir, has it come to this? The rifle has ever been the companion of the pioneer, and, under God, his tutelary protector against the red man and the beast of the forest. Never was this efficient weapon more needed in just self-defence than now in Kansas, and at least one article in our national Constitution must be blotted out before the complete right to it can in any way be impeached. And yet such is the madness of the hour, that, in defiance of the solemn guarantee, embodied in the amendments to the Constitution, that "the right of the people to keep and bear arms shall not be infringed," the people of Kansas have been arraigned for keeping and bearing them, and the senator from South Carolina has had the face to say openly, on this floor, that they should be disarmed—of course, that the fanatics of slavery, his allies and constituents, may meet no impediment. Sir, the senator is venerable with years; he is reputed also to have worn at home, in the State which he represents, judicial honors; and he is placed here at the head of an important committee occupied particularly with questions of law; but neither his years nor his position, past or present, can give respectability to the demand he has made, or save him from indignant condemnation, when, to compass the wretched purposes of a wretched cause, he thus proposes to trample on one of the plainest provisions of constitutional liberty.

Next comes the *remedy of injustice and civil war*, organized by act of Congress. This proposition, which is also an offshoot of the original remedy of tyranny, proceeds from the senator from Illinois, (Mr. DOUGLAS,) with the sanction of the Committee on Territories, and is embodied in the bill which is now pressed to a vote.

By this bill it is proposed as follows:

"That whenever it shall appear, by a census to be taken under the direction of the governor, by the authority of the legislature, that there shall be 93,420 inhabitants (that being the number required by the present ratio of representation for a member of Congress) within the limits hereafter described as the Territory of Kansas, the legislature of said Territory shall be, and is hereby, authorized to provide by law for the election of delegates, by the people of said Territory, to assemble in convention and form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States in all respects whatsoever, by the name of the State of Kansas."

Now, sir, consider these words carefully, and you will see that, however plausible and velvet-pawed they may seem, yet in reality they are most unjust and cruel. While affecting to initiate honest proceedings for the formation of a State, they furnish to this Territory no redress for the crime under which it suffers; nay, they recognize the very usurpation in which the crime ended, and proceed to endow it with new prerogatives. It is *by the authority of the legislature* that the census is to be taken, which is the first step in the work. It is also *by the authority of the legislature* that a convention is to be called for the formation of a constitution, which is the second step. But the legislature is not obliged to take either of these steps. To its absolute willfulness is left to act or not to act in the premises. And since, in the ordinary course of business, there can be no action of the legislature till January of the next year, all these steps, which are preliminary in their character, are postponed till after that distant day—thus keeping this great question open to distract and irritate the country. Clearly this is not what is required. The country desires peace at once, and is determined to have it. But this objection is slight by the side of the glaring tyranny, that, in recognizing the legislature, and conferring upon it these new powers, the bill recognizes the existing usurpation, not only as the authentic government of the territory for the time being, but also as possessing a creative power to reproduce itself in the new State. Pass this bill, and you enlist Congress in the conspiracy, not only to keep the people of Kansas in their present subjugation, throughout their territorial existence, but also to protract this subjugation into their existence as a State, while you legalize and perpetuate the very *force* by which slavery has been already planted there.

I know that there is another deceptive clause, which seems to throw certain safeguards around the election of delegates to the convention, *when that convention shall be ordered by the legislature*; but out of this very clause do I draw a condemnation of the usurpation which the bill recognizes. It provides that the tests, coupled with the electoral franchise, shall not prevail in the election of delegates, and thus impliedly condemns them. But if they are not to prevail on this occasion, why are they permitted at the election of the legislature? If they are unjust in the one case they are unjust in the other. If annulled at the election of delegates, they should be annulled at the election of the legislature; *whereas the bill of the senator leaves all these offensive tests in full activity at the election of the very legislature out of which this whole proceeding is to come*, and it leaves the polls at both elections in the control of the officers appointed by the usurpation. Consider well the facts. By an existing statute, establishing the fugitive slave bill as a shibboleth, a large portion of the honest citizens are excluded from voting for the legislature, while, by another statute, all who present themselves with the fee of one dollar, whether from Missouri or not, and who can utter this shibboleth are entitled to vote. And it is a legislature thus chosen, under the auspices of officers appointed by the usurpation, that you now propose to invest with parental powers to rear the Territory into a State. You recognize and confirm the usurpation, which you ought to annul without

delay. You put the infant State, now preparing to take a place in our sisterhood, to suckle with the wolf, which you ought at once to kill. The improbable story of Baron Münchhausen is verified. The bear, which thrust itself into the harness of the horse it had devoured, and then whirled the sledge according to mere brutal bent, is recognized by this bill, and kept in its usurped place, when the safety of all requires that it should be shot.

In characterizing this bill as the remedy of injustice and civil war, I give it a plain, self-evident title. It is a continuation of the crime against Kansas, and as such deserves the same condemnation. It can only be defended by those who defend the crime. Sir, you cannot expect that the people of Kansas will submit to the usurpation which this bill sets up, and bids them bow before—as the Austrian tyrant set up his cap in the Swiss market place. If you madly persevere, Kansas will not be without her William Tell, who will refuse at all hazards to recognize the tyrannical edict; and this will be the beginning of civil war.

Next, and lastly, comes the *remedy of justice and peace*, proposed by the senator from New York, (Mr. SEWARD,) and embodied in his bill for the immediate admission of Kansas as a State of this Union, now pending as a substitute for the bill of the senator from Illinois. This is sustained by the prayer of the people of the Territory, setting forth a constitution formed by a spontaneous movement, in which all there had opportunity to participate, without distinction of party. Rarely has any proposition, so simple in character, so entirely practicable, so absolutely within your power, been presented, which promises at once such beneficent results. In its adoption, the crime against Kansas will be all happily absolved, the usurpation which it established will be peacefully suppressed, and order will be permanently secured. By a joyful metamorphosis this fair Territory may be saved from outrage.

"Oh help," she cries, "in this extremest need,
If you who hear are deities indeed;
Gape earth, and make for this dread foe a tomb,
Or change my form, whence all my sorrows come."

In offering this proposition, the senator from New York has entitled himself to the gratitude of the country. He has, throughout a life of unsurpassed industry, and of eminent ability, done much for freedom, which the world will not let die; but he has done nothing more opportune than this, and he has uttered no words more effective than the speech, so masterly and ingenious, by which he has vindicated it.

Kansas now presents herself for admission with a constitution republican in form. And, independent of the great necessity of the case, three considerations of fact concur in commending her. First. She thus testifies her willingness to relieve the federal government of the considerable pecuniary responsibility to which it is now exposed on account of the pretended territorial government. Secondly. She has by her recent conduct, particularly in repelling the invasion at Wakarusa, evinced an ability to defend her government. And, thirdly, by the pecuniary credit which she now enjoys, she shows an undoubted ability to support it. What now can stand in her way?

The power of Congress to admit Kansas at once is explicit. It is

found in a single clause of the Constitution, which, standing by itself, without any qualification applicable to the present case, and without doubtful words, requires no commentary. Here it is:

“New States *may* be admitted by Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.”

New States may be admitted. Out of that little word *may* comes the power, broadly and fully, without any limitation founded on population or preliminary forms, provided the State is not within the jurisdiction of another State, nor formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States. Kansas is not within the *legal* jurisdiction of another State, although the laws of Missouri have been tyrannically extended over her; nor is Kansas formed by the junction of two or more States; and, therefore, Kansas *may* be admitted by Congress into the Union, without regard to population or preliminary forms. You cannot deny the power without obliterating this clause of the Constitution. The senator from New York was right in rejecting all appeals to precedents as entirely irrelevant; for the power invoked is clear and express in the Constitution, which is above all precedent. But, since precedent has been enlisted, let us look at precedent.

It is objected that the *population* of Kansas is not sufficient for a State; and this objection is sustained by under-reckoning the numbers there, and exaggerating the numbers required by precedent. In the absence of any recent census it is impossible to do more than approximate to the actual population; but, from careful inquiry of the best sources I am led to place it now at fifty thousand, though I observe that a prudent authority, the *Boston Daily Advertiser*, puts it as high as sixty thousand, and, while I speak, this remarkable population, fed by fresh emigration, is outstripping even these calculations. Nor can there be a doubt that, before the assent of Congress can be perfected in the ordinary course of legislation, this population will swell to the large number of ninety-three thousand four hundred and twenty, required in the bill of the senator from Illinois. *But, in making this number the condition of the admission of Kansas, you set up an extraordinary standard.* There is nothing out of which it can be derived, from the beginning to the end of the precedents. Going back to the days of the Continental Congress, you will find that, in 1784, it was declared that twenty thousand freemen in a Territory might “establish a permanent constitution and government for themselves,” (Journals of Congress, vol. 4, p. 379;) and, though this number was afterwards, in the ordinance of 1787 for the northwestern territory, raised to sixty thousand, yet the power was left in Congress, and subsequently exercised in more than one instance, to constitute a State with a smaller number. Out of all the new States, only Maine, Wisconsin, and Texas contained, at the time of their admission into the Union, so large a population as it is proposed to require in Kansas; while no less than *fourteen* new States have been admitted with a smaller population; as will appear in the following list, which is the result of research, showing the number of “free inhabitants” in

these States at the time of the proceedings which ended in their admission :

Vermont	85,416	Illinois.....	45,000
Kentucky	61,103	Missouri	56,586
Tennessee	66,649	Arkansas.....	41,000
Ohio.....	50,000	Michigan.....	92,673
Louisiana.....	41,890	Florida.....	27,091
Indiana.....	60,000	Iowa.....	21,921
Mississippi.....	35,000	California.....	92,597
Alabama.....	50,000		

But this is not all. At the adoption of the federal Constitution there were three of the old thirteen States whose respective populations did not reach the amount now required for Kansas. These were Delaware, with a population of 59,096; Rhode Island, with a population of 64,689; and Georgia, with a population of 82,548. And even now, while I speak, there are at least two States, with senators on this floor, which, according to the last census, do not contain the population now required of Kansas. I refer to Delaware, with a population of 91,635, and Florida, with a population of freemen amounting only to 47,204. So much for precedents of population.

But in sustaining this objection it is not uncommon to depart from the strict rule of numerical precedent, by suggesting that the population required in a new State has always been, in point of fact, above the existing ratio of representation for a member of the House of Representatives. But this is not true; for at least one State, Florida, was admitted with a population below this ratio, which at the time was 70,680. So much, again, for precedents. But, even if this coincidence were complete, it would be impossible to press it into a binding precedent. The rule seems reasonable, and, in ordinary cases, would not be questioned; but it cannot be drawn or implied from the Constitution. Besides, this ratio is, in itself, a sliding scale. At first it was 33,000, and thus continued till 1811, when it was put at 35,000. In 1822 it was 40,000; in 1832 it was 47,700; in 1842 it was 70,680; and now it is 93,420. If any ratio is to be made the foundation of a binding rule, it should be that which prevailed at the adoption of the Constitution, and which still continued when Kansas, as a part of Louisiana, was acquired from France, under solemn stipulation that it should "be incorporated into the Union of the United States *as soon as* may be consistent with the principles of the federal Constitution." But this whole objection is met by the memorial of the people of Florida, which, if good for that State, is also good for Kansas. Here is a passage:

"But the people of Florida respectfully insist that their right to be admitted into the federal Union as a State is not dependent upon the fact of their having a population equal to such ratio. Their right to admission, it is conceived, is guarantied by the express pledge in the sixth article of the treaty before quoted; and if any rule as to the number of the population is to govern, it should be that in existence at the time of the cession, which was thirty-five thousand. They submit, however, that any ratio of representation, dependent upon legislative action, based solely on convenience and expediency, shifting and vacillating as the opinion of a majority of Congress may make it, now greater than at a previous apportionment, but which a future Congress may prescribe to be less, cannot be one of the *constitutional* 'PRINCIPLES' referred to in the treaty, consistency with which, by its terms, is required. It is, in truth, but a mere regulation, not founded on principle. No specified number of population is required by any recognized principle as necessary in the establishment of a free government.

"It is in nowise '*inconsistent with the principles of the federal Constitution,*' that the popu-

lation of a State should be less than the ratio of congressional representation. The very case is provided for in the Constitution. With such deficient population, she would be entitled to one representative. If any event should cause a decrease of the population of one of the States even to a number below the *minimum* ratio of representation prescribed by the Constitution, she would still remain a member of the confederacy, and be entitled to such representative. It is respectfully urged that a rule or principle which would not justify the *expulsion* of a State with a deficient population, on the ground of inconsistency with the Constitution, should not exclude or prohibit *admission* — *Ex. Doc., 27th Cong., 2d sess., vol. 4, No. 206.*

Thus, sir, do the people of Florida plead for the people of Kansas.

Distrusting the objection from inadequacy of population, it is said that the *proceedings for the formation of a new State are fatally defective in form*. It is not asserted that a previous enabling act of Congress is indispensable, for there are notorious precedents the other way, among which are Kentucky in 1791; Tennessee in 1796; Maine in 1820; and Arkansas and Michigan in 1836. But it is urged that in no instance has a State been admitted whose constitution was formed without such enabling act, or without the authority of the territorial legislature. This is not true; for California came into the Union with a constitution formed not only without any previous enabling act, but also without any sanction from a territorial legislature. The proceedings which ended in this constitution were initiated by the military governor there, acting under the exigency of the hour. This instance may not be identical in all respects with that of Kansas, but it displaces completely one of the assumptions which Kansas now encounters, and it also shows completely the disposition to relax all rule, under the exigency of the hour, in order to do substantial justice.

But there is a memorable instance, which contains in itself every element of irregularity which you denounce in the proceedings of Kansas. Michigan, now cherished with such pride as a sister State, achieved admission into the Union in persistent defiance of all rule. Do you ask for precedents. Here is a precedent for the largest latitude, which you, who profess a deference to precedent, cannot disown. Mark now the stages of this case. The first proceedings of Michigan were without any previous enabling act of Congress; and she presented herself at your door with a constitution thus formed, and with senators chosen under that constitution, precisely as Kansas now. This was in December, 1835, while Andrew Jackson was President. By the leaders of the democracy at that time, all objection for alleged defects of form was scouted, and language was employed which is strictly applicable to Kansas. There is nothing new under the sun; and the very objection of the President, that the application of Kansas proceeds from "persons acting against authorities duly constituted by act of Congress," was hurled against the application of Michigan, in debate on this floor, by Mr. Hendricks, of Indiana. This was his language:

"But the people of Michigan, in presenting their senate and house of representatives as the legislative power existing there, *showed that they had trampled upon and violated the laws of the United States, establishing a territorial government in Michigan.* These laws were, or ought to be, in full force there; but, by the character and position assumed, they had set up a government antagonist to that of the United States." — *Congress. Deb., 24th Cong. 1st sess., vol. 12, p. 288.*

To this impeachment Mr. Benton replied in these effective words:

"Conventions were original acts of the people. They depend upon inherent and inalienable rights. The people of any State may at any time meet in convention, without a law of

their legislature, and without any provision, or against any provision in their constitution, and may alter or abolish the whole frame of government as they please. The sovereign power to govern themselves was in the majority, and they could not be divested of it."—*Ibid.*, p. 1036.

Mr. Buchanan vied with Mr. Benton in vindicating the new State :

"The precedent in the case of Tennessee has completely silenced all opposition in regard to the necessity of a previous act of Congress to enable the people of Michigan to form a State constitution. It now seems to be conceded that our subsequent approbation is equivalent to our previous action. This can no longer be doubted. *We have the unquestionable power of waiving any irregularities in the mode of framing the constitution, had any such existed.*"—*Ibid.*, p. 1041.

"He did hope that by this bill all objections would be removed; and that this State, so ready to rush into our arms, would not be repulsed, because of the absence of some formalities which perhaps were very proper, but certainly not indispensable."—*Ibid.*, p. 1015.

After an animated contest in the Senate, the bill for the admission of Michigan, *on her assent to certain conditions*, was passed by 23 yeas to 8 nays. But you find weight as well as numbers on the side of the new State. Among the yeas were Thomas H. Benton, of Missouri, James Buchanan, of Pennsylvania, Silas Wright, of New York, W. R. King, of Alabama.—(Cong. Globe, vol. 3, p. 276, 1st session 24th Cong.) Subsequently, on motion of Mr. Buchanan, the two gentlemen sent as senators by the new State received the regular compensation for attendance throughout the very session in which their seats had been so acrimoniously assailed.—(*Ibid.*, p. 448.)

In the House of Representatives the application was equally successful. The Committee on the Judiciary, in an elaborate report, reviewed the objections, and, among other things, said :

"That the people of Michigan have, without due authority, formed a State government, but, nevertheless, that Congress has power to waive any objection which might on that account be entertained to the ratification of the constitution which they have adopted, and to admit their senators and representatives to take their seats in the Congress of the United States."—(*Ex. Doc.*, 1st sess. 24th Cong., vol. 2, No. 380.)

The House sustained this view by a vote of 153 yeas to 45 nays. In this large majority, by which the title of Michigan was then recognized, will be found the name of Franklin Pierce, at that time a representative from New Hampshire.

But the case was not ended. The fiercest trial and the greatest irregularity remained. The act providing for the admission of a new State contained a modification of its boundaries, and proceeded to require, as a *fundamental condition*, that these should "receive the assent of a convention of delegates, elected by the people of the said State, for the sole purpose of giving the assent herein required."—(Statutes at Large, vol. 5, p. 50, act of June 5, 1836.) Such a convention, duly elected under a call from the legislature, met in pursuance of law, and, after consideration, declined to come into the Union on the condition proposed. But the action of this convention was not universally satisfactory; and in order to effect an admission into the Union, another convention was called *professedly* by the people, in their sovereign capacity, without any authority from State or territorial legislature; nay, sir, according to the language of the present President, "against authorities duly constituted by act of Congress," at least as much as the recent convention in Kansas. The irregularity of this convention was increased by the circumstance that two of the oldest counties of the State, comprising a population of some twenty-five thousand souls, refused to take any part in it, even

to the extent of not opening the polls for the election of delegates, claiming that it was held without warrant of law, and in defiance of the legal convention. This popular convention, though wanting a popular support coextensive with the State, yet proceeded, by formal act, to give the assent of the people of Michigan to the fundamental condition proposed by Congress.

The proceedings of the two conventions were transmitted to President Jackson, who, by message dated December 27, 1836, laid them both before Congress, indicating very clearly his desire to ascertain the will of the people, without regard to form. The origin of this popular convention he thus describes:

"This convention was not held or elected by virtue of any act of the territorial or State legislature. It originated from the people themselves, and was chosen by them in pursuance of resolutions adopted in primary assemblies held in the respective counties."—*Sen. Doc., 2d session 24th Congress, vol. 1, No. 36.*

And he then declares that, had these proceedings come to him during the recess of Congress, he should have felt it his duty, on being satisfied that they emanated from a convention of delegates elected *in point of fact by the people of the State*, to issue his proclamation for the admission of the State.

The Committee on the Judiciary in the Senate, of which Felix Grundy was chairman, after inquiry, recognized the competency of the popular convention, as "elected by the people of the State of Michigan," and reported a bill responsive to their assent of the proposed condition, for the admission of the State without further condition.—(Statutes at Large, vol. 5, p. 144, act of January 26, 1837.) Then, sir, appeared the very objections which are now directed against Kansas. It was complained that the movement for immediate admission was the work of a "minority," and that "a great majority of the State feel otherwise."—(Sen. Doc., 2d session 24th Congress, vol. 1, No. 37.) And a leading senator, of great ability and integrity, Mr. Ewing, of Ohio, broke forth in a catechism which would do for the present hour. He exclaimed:

"What evidence had the Senate of the organization of the convention? Of the organization of the popular assemblies who appointed their delegates to that convention? None on earth. Who they were that met and voted we had no information. Who gave the notice? And for what did the people receive the notice? To meet and elect? What evidence was there that the convention acted according to law? Were the delegates sworn? And, if so, they were extra-judicial oaths, and not binding upon them. Were the votes counted? In fact, it was not a proceeding under the forms of the law, for they were totally disregarded."—*Congressional Globe, 2d session 24th Congress, vol. 4, p. 60.*

And the same able Senator, on another occasion, after exposing the imperfect evidence with regard to the action of the convention, existing only in letters and in an article from a Detroit newspaper, again exclaimed:

"This, sir, is the evidence to support an organic law of a new State about to enter into the Union! Yes, of an organic law, the very highest act a community of men can perform. Letters referring to other letters and a scrap of a newspaper."—*Cong. Debates, vol. 13, part 1, p. 233.*

It was Mr. Calhoun, however, who pressed the opposition with the most persevering intensity. In his sight, the admission of Michigan, under the circumstances, "would be the most monstrous proceeding under our Constitution that can be conceived, the most repugnant to its principles, and dangerous in its consequences."—(Cong. Debates,

vol. 13, p. 210.) "There is not," he exclaimed, "one particle of official evidence before us. We have nothing but the private letters of individuals, who do not know even the numbers that voted on either occasion. They know nothing of the qualifications of voters, nor how their votes were received, nor by whom counted."—(Ibid.) And he proceeded to characterize the popular convention as "not only a party caucus, for party purpose, but a criminal meeting—a meeting to subvert the authority of the State and to assume its sovereignty"—adding "that the actors in that meeting might be indicted, tried, and punished"—and he expressed astonishment that "a self-created meeting, convened for a criminal object, had dared to present to this government an act of theirs, and to expect that we are to receive this irregular and criminal act as a fulfillment of the condition which we had presented for the admission of the State!"—(Ibid., p. 299.) No stronger words have been employed against Kansas.

But the single question on which all the proceedings then hinged, and which is as pertinent in the case of Kansas as in the case of Michigan, was thus put by Mr. Morris, of Ohio—(Ibid., p. 215)—"*Will Congress recognize as valid, constitutional, and obligatory, without the color of a law of Michigan to sustain it, an act done by the people of that State in their primary assemblies, and acknowledge that act as obligatory on the constituted authorities and legislature of the State?*" This question, thus distinctly presented, was answered in debate by able senators, among whom were Mr. Benton and Mr. King. But there was one person, who has since enjoyed much public confidence, and has left many memorials of an industrious career in the Senate and in diplomatic life, James Buchanan, who rendered himself conspicuous by the ability and ardor with which, against all assaults, he upheld the cause of the popular convention, which was so strongly denounced, and the entire conformity of its proceedings with the genius of American institutions. His speeches on that occasion contain an unanswerable argument, at all points, *mutato nomine*, for the immediate admission of Kansas under her present constitution; nor is there anything by which he is now distinguished that will redound so truly to his fame—if he only continues true to them. But the question was emphatically answered in the Senate by the final vote on the passage of the bill, where we find twenty-five yeas to only ten nays. In the House of Representatives, after debate, the question was answered in the same way, by a vote of one hundred and forty-eight yeas to fifty-eight nays; and among the yeas is again the name of Franklin Pierce, a representative from New Hampshire.

Thus, in that day, by such triumphant votes, did the cause of Kansas prevail in the name of Michigan. A popular convention—called absolutely without authority, and containing delegates from a portion only of the population—called, too, in opposition to constituted authorities, and in derogation of another convention assembled under the forms of law, stigmatized as a caucus and a criminal meeting, whose authors were liable to indictment, trial, and punishment, was, after ample debate, recognized by Congress as valid, and Michigan now holds her place in the Union, and her senators sit on this floor,

by virtue of that act. Sir, if Michigan is legitimate, Kansas cannot be illegitimate. You bastardize Michigan when you refuse to recognize Kansas.

Again, I say, do you require a precedent? I give it to you. But I will not stake this cause on any precedent. I plant it firmly on the fundamental principle of American institutions, as embodied in the Declaration of Independence, by which government is recognized as deriving its just powers only *from the consent of the governed*, who may alter or abolish it when it becomes destructive of their rights. In the debate on the Nebraska bill, at the overthrow of the prohibition of slavery, the Declaration of Independence was denounced as a "self-evident lie." It is only by a similar audacity that the fundamental principle, which sustains the proceedings in Kansas, can be assailed. Nay, more, you must disown the Declaration of Independence, and adopt the circular of the holy alliance, which declares that "useful and necessary changes in legislation and in the administration of States *ought only to emanate from the free will and the intelligent and well-weighted conviction of those whom God has rendered responsible for power.*" Face to face, I put the principle of the Declaration of Independence and the principle of the holy alliance, and bid them grapple! "The one places the remedy in the hands which *feel* the disorder; the other places the remedy in the hands which *cause* the disorder;" and when I thus truthfully characterize them, I but adopt a sententious phrase from the debates in the Virginia convention on the adoption of the federal Constitution.—(3 Elliot's Debates, 107—Mr. Corbin.) And now these two principles, embodied in the rival propositions of the senator from New York and the senator from Illinois, must grapple on this floor.

Statesmen and judges, publicists and authors, with names of authority in American history, espouse and vindicate the American principle. Hand in hand, they now stand around Kansas, and feel this new State lean on them for support. Of these I content myself with adducing two only, both from slaveholding Virginia, in days when human rights were not without support in that State. Listen to the language of St. George Tucker, the distinguished commentator upon Blackstone, uttered from the bench in a judicial opinion:

"The power of convening the legal assemblies, or the ordinary constitutional legislature, *resided solely in the executive.* They could neither be chosen without writs issued by its authority, nor assemble, when chosen, but under the same authority. The conventions, on the contrary, were chosen and assembled, either in pursuance of recommendations from Congress, or from their own bodies, *or by the discretion and common consent of the people.* They were held even whilst a legal assembly existed. Witness the convention held at Richmond, in March, 1775; after which period, the legal constitutional assembly was convened in Williamsburg, by the governor, Lord Dunmore." * * * * "Yet a constitutional dependence on the British government was never denied until the succeeding May." * * * "The convention, then, was not the ordinary legislature of Virginia. It was the body of the people, impelled to assemble from a sense of common danger, consulting for the common good, and acting in all things for the common safety."—1 Virginia Cases, 70, 71, *Kemper vs. Hawkins*.

Listen also to the language of James Madison:

"That in all great changes of established government, forms ought to give way to substance; that a rigid adherence in such cases to the forms would render nominal and nugatory the transcendent and precious right of the people 'to abolish or alter their government, as to them shall seem most likely to effect their safety and happiness.'" * * * "Nor can it have been forgotten that no little ill-timed scruples, no zeal for adhering to ordinary forms, were anywhere seen, except in those who wished to indulge under these masks their secret enmity to the substance contended for."—*The Federalist*, No. 40.

Proceedings thus sustained, I am unwilling to call *revolutionary*, although this term has the sanction of the senator from New York. They are founded on an unquestionable American right, declared with independence, confirmed by the blood of the fathers, and expounded by patriots, which cannot be impeached without impairing the liberties of all. On this head the language of Mr. Buchanan, in reply to Mr. Calhoun, is explicit:

“Does the senator (Mr. CALHOUN) contend, then, that if, in one of the States of this Union, the government be so organized as to utterly destroy the right of equal representation, there is no mode of obtaining redress but by an act of the legislature authorizing a convention, or by open rebellion? Must the people step at once from oppression to open war? Must it be either absolute submission or absolute revolution? *Is there no middle course?* I cannot agree with the senator. I say that the whole history of our government establishes the principle, that the people are sovereign, and that a majority of them can alter or change their fundamental laws at pleasure. *I deny that this is either rebellion or revolution. It is an essential and a recognized principle in all our forms of government.*”—*Congress. Debates*, 24th Cong., 2d sess., vol. 13, p. 313.

Surely, sir, if ever there was occasion for the exercise of this right, the time had come in Kansas. The people there had been subjugated by a horde of foreign invaders and brought under a tyrannical code of revolting barbarity, while property and life among them were left exposed to audacious assaults which flaunted at noon-day, and to reptile abuses which crawled in the darkness of night. *Self-defence is the first law of nature*; and unless this law is temporarily silenced—as all other law has been silenced there—you cannot condemn the proceedings in Kansas. Here, sir, is an unquestionable authority—in *itself an overwhelming law*—which belongs to all countries and times—which is the same in Kansas as at Athens and Rome—which is now and will be hereafter, as it was in other days—in presence of which acts of Congress and constitutions are powerless, as the voice of man against the thunder which rolls through the sky—which whispers itself coeval with life—whose very breath is life itself; and now, in the last resort, do I place all these proceedings under this supreme safeguard, which you will assail in vain. Any opposition must be founded on a fundamental perversion of facts, or a perversion of fundamental principles, which no speeches can uphold, though surpassing in numbers the nine hundred thousand piles driven into the mud in order to sustain the Dutch Stadt-house at Amsterdam!

Thus, on every ground of precedent, whether as regards population or forms of proceeding; also, on the vital principle of American institutions; and, lastly, on the absolute law of self-defence, do I now invoke the power of Congress to admit Kansas at once, and without hesitation into the Union. “New States *may* be admitted by the Congress into the Union;” such are the words of the Constitution. If you hesitate for want of precedent, then do I appeal to the great principle of American institutions. If, forgetting the origin of the republic, you turn away from this principle, then, in the name of human nature, trampled down and oppressed, but aroused to a just self-defence, do I plead for the exercise of this power. Do not hearken, I pray you, to the propositions of tyranny and folly; do not be ensnared by that other proposition of the senator from Illinois, (Mr. DOUGLAS,) in which is the horrid root of injustice and civil war. But apply gladly, and at once, the true remedy, wherein are justice and peace.

Mr. President, an immense space has been traversed, and I now

stand at the goal. The argument in its various parts is here closed. The crime against Kansas has been displayed in its origin and extent, beginning with the overthrow of the prohibition of slavery; next cropping out in conspiracy on the borders of Missouri, then hardening into a continuity of outrage, through organized invasions and miscellaneous assaults, in which all security was destroyed, and ending at last in the perfect subjugation of a generous people to an unprecedented usurpation. Turning aghast from the crime, which, like murder, seemed to confess itself "with most miraculous organ," we have looked with mingled shame and indignation upon the four apologies, whether of tyranny, imbecility, absurdity, or infamy, in which it has been wrapped, marking especially the false testimony, congenial with the original crime, against the Emigrant Aid Company. Then were noted, in succession, the four remedies, whether of tyranny, folly, injustice, and civil war, or justice and peace, which last bids Kansas, in conformity with past precedents and under the exigencies of the hour, in order to redeem her from usurpation, to take a place as a sovereign State of the Union; and this is the true remedy. If in this argument I have not unworthily vindicated truth, then have I spoken according to my desires; if imperfectly, then only according to my powers. But there are other things, not belonging to the argument, which still press for utterance.

Sir, the people of Kansas, bone of your bone and flesh of your flesh, with the education of freemen and the rights of American citizens, now stand at your door. Will you send them away, or bid them enter? Will you push them back to renew their struggles with a deadly foe, or will you preserve them in security and peace? Will you cast them again into the den of tyranny, or will you help their despairing efforts to escape? These questions I put with no common solicitude; for I feel that on their just determination depend all the most precious interests of the republic; and I perceive too clearly the prejudices in the way, and the accumulating bitterness against this distant people, now claiming their simple birthright, while I am bowed with mortification as I recognize the President of the United States, who should have been a staff to the weak and a shield to the innocent, at the head of this strange oppression.

At every stage the similitude between the wrongs of Kansas and those other wrongs against which our fathers rose becomes more apparent. Read the Declaration of Independence, and there is hardly an accusation which is there directed against the British monarch, which may not now be directed with increased force against the American President. The parallel has a fearful particularity. Our fathers complained that the king had "sent hither swarms of officers to harass our people and eat out their substance;" that he "had combined with others to subject us to a jurisdiction foreign to our Constitution, *giving his assent to their acts of pretended legislation*;" that "he had abdicated government here, by declaring us out of his protection, and *waging war against us*;" that "he had excited domestic insurrection among us, and *endeavored to bring on the inhabitants of our frontier the merciless savages*;" that "our repeated petitions have been answered only by repeated injury." And this arrangement was

aptly followed by the damning words, that "a prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people." And surely a President who has done all these things, cannot be less unfit than a prince. At every stage the responsibility is brought directly to him. His offence has been both of commission and omission. He has done that which he ought not to have done, and he has left undone that which he ought to have done. By his activity the prohibition of slavery was overturned. By his failure to act, the honest emigrants in Kansas have been left a prey to wrong of all kinds. *Nullum flagitium extitit, nisi per te; nullum flagitium sine te.* And now he stands forth the most conspicuous enemy of that unhappy Territory.

As the tyranny of the British king is all renewed in the President, so, on this floor, have the old indignities been renewed, which embittered and fomented the troubles of our fathers. The early petition of the American Congress to Parliament, long before any suggestion of independence, was opposed—like the petition of Kansas—because that body "was assembled without any requisition on the part of the supreme power." Another petition from New York, presented by Edmund Burke, was flatly rejected, as claiming rights derogatory to Parliament. And still another petition from Massachusetts Bay was dismissed as "vexatious and scandalous," while the patriot philosopher who bore it was exposed to perulian contumely. Throughout the debates our fathers were made the butt of sorry jests and supercilious assumptions. And now these scenes, with these precise objections, have been renewed in the American Senate.

With regret, I come again upon the Senator from South Carolina, (Mr. BUTLER,) who, omnipresent in this debate, overflowed with rage at the simple suggestion that Kansas had applied for admission as a State; and, with incoherent phrases discharged the loose expectoration of his speech, now upon her representative, and then upon her people. There was no extravagance of the ancient Parliamentary debate which he did not repeat; nor was there any possible deviation from truth which he did not make, with so much of passion, I am glad to add, as to save him from the suspicion of intentional aberration. But the senator touches nothing which he does not disfigure—with error, sometimes of principles, sometimes of fact. He shows an incapacity of accuracy, whether in stating the Constitution or in stating the law, whether in the details of statistics or the diversions of scholarship. He cannot open his mouth, but out there flies a blunder. Surely he ought to be familiar with the life of Franklin; and yet he referred to this household character, while acting as agent of our fathers in England, as above suspicion; and this was done that he might give point to a false contrast with the agent of Kansas—not knowing, that, however they may differ in genius and fame, in this experience they are alike, that Franklin, when intrusted with the petition of Massachusetts Bay, was assaulted by a foul-mouthed speaker, where he could not be heard in defence, and denounced as a "thief," even as the agent of Kansas has been assaulted on this floor, and denounced as a "forger." And let not the vanity of the Senator be inspired by the

parallel with the British statesmen of that day; for it is only in hostility to freedom that any parallel can be recognized.

But it is against the people of Kansas that the sensibilities of the senator are particularly aroused. Coming, as he announces, "from a State"—ay, sir, from South Carolina—he turns with lordly disgust from this newly-formed community, which he will not recognize even as "a body politic." Pray, sir, by what title does he indulge in this egotism? Has he read the history of "the State" which he represents? He cannot surely have forgotten its shameful imbecility from slavery, confessed throughout the revolution, followed by its most shameful assumptions for slavery since. He cannot have forgotten its wretched persistence in the slave trade as the very apple of its eye, and the condition of its participation in the Union. He cannot have forgotten its constitution, which is republican only in name, confirming power in the hands of the few, and founding the qualifications of its legislators on "a settled freehold estate and ten negroes." And yet the senator, to whom that "State" has in part committed the guardianship of its good name, instead of moving, with backward treading steps, to cover its nakedness, rushes forward, in the very ecstacy of madness, to expose it by provoking a comparison with Kansas. South Carolina is old; Kansas is young. South Carolina counts by centuries; where Kansas counts by years. But a beneficent example may be born in a day; and I venture to say, that against the two centuries of the older "State" may be already set the two years of trial, evolving corresponding virtue, in the younger community. In the one, is the long wail of slavery; in the other, the hymns of freedom. And if we glance at special achievements, it will be difficult to find anything in the history of South Carolina which presents so much of heroic spirit in an heroic cause as appears in that repulse of the Missouri invaders by the beleaguered town of Lawrence, where even the women gave their effective efforts to freedom. The matrons of Rome, who poured their jewels into the treasury for the public defence—the wives of Prussia, who, with delicate fingers, clothed their defenders against French invasion—the mothers of our own revolution, who sent forth their sons, covered over with prayers and blessings, to combat for human rights, did nothing of self-sacrifice truer than did these women on this occasion. Were the whole history of South Carolina blotted out of existence, from its very beginning down to the day of the last election of the senator to his present seat on this floor, civilization might lose—I do not say how little, but surely less than it has already gained by the example of Kansas, in its valiant struggle against oppression, and in the development of a new science of emigration. Already in Lawrence alone there are newspapers and schools, including a high school, and throughout this infant Territory there is more mature scholarship, in proportion to its inhabitants, than in all South Carolina. Ah, sir, I tell the senator that Kansas, welcomed as a free State, will be a "ministering angel" to the republic, when South Carolina, in the cloak of darkness which she hugs, "lies howling."

The senator from Illinois (Mr. DOUGLAS) naturally joins the senator from South Carolina in this warfare, and gives to it the superior in-

tensity of his nature. He thinks that the national government has not completely proved its power, as it has never hanged a traitor; but, if the occasion requires, he hopes there will be no hesitation; and this threat is directed at Kansas, and even at the friends of Kansas throughout the country. Again occurs the parallel with the struggles of our fathers, and I borrow the language of Patrick Henry, when to the cry from the senator, of "treason," "treason," I reply, "if this be treason, make the most of it." Sir, it is easy to call names; but I beg to tell the senator that if the word "traitor" is in any way applicable to those who refuse submission to a tyrannical usurpation, whether in Kansas or elsewhere, then must some new word, of deeper color, be invented, to designate those mad spirits who would endanger and degrade the republic, while they betray all the cherished sentiments of the fathers and the spirit of the Constitution, in order to give new spread to slavery. Let the senator proceed. It will not be the first time in history, that a scaffold erected for punishment has become a pedestal of honor. Out of death comes life, and the "traitor" whom he blindly executes will live immortal in the cause.

"For Humanity sweeps onward; where to-day the martyr stands,
On the morrow crouches Judas, with the silver in his hands;
While the hooting mob of yesterday in silent awe return,
To glean up the scattered ashes into History's golden urn."

Among these hostile senators, there is yet another, with all the prejudices of the senator from South Carolina, but without his generous impulses, who, on account of his character before the country, and the rancor of his opposition, deserves to be named. I mean the senator from Virginia, (Mr. MASON,) who, as the author of the fugitive slave bill, has associated himself with a special act of humanity and tyranny. Of him I shall say little, for he has said little in this debate, though within that little was compressed the bitterness of a life absorbed in the support of slavery. He holds the commission of Virginia; but he does not represent that early Virginia, so dear to our hearts, which gave to us the pen of Jefferson, by which the equality of men was declared, and the sword of Washington, by which independence was secured; but he represents that other Virginia, from which Washington and Jefferson now avert their faces, where human beings are bred as cattle for the shambles, and where a dungeon rewards the pious matron who teaches little children to relieve their bondage by reading the Book of Life. It is proper that such a senator, representing such a State, should rail against free Kansas.

But this is not all. The precedent is still more clinching. Thus far I have followed exclusively the public documents laid before Congress, and illustrated by the debates of that body; but well authenticated facts, not of record here, make the case stronger still. It is sometimes said that the proceedings in Kansas are defective, because they originated in a party. This is not true; but even if it were true, then would they still find support in the example of Michigan, where all the proceedings, stretching through successive years, began and ended in party. The proposed State government was pressed by the democrats as a *party test*; and all who did not not embark in it were denounced. Of the legislative council, which called the first constitutional convention in 1835, all were democrats; and in the convention

itself, composed of eighty-seven members, only seven were whigs. The convention of 1836, which gave the final assent, originated in a democratic convention on the 29th October, in the county of Wayne, composed of one hundred and twenty-four delegates, all democrats, who proceeded to resolve—

“That the delegates of the *democratic party* of Wayne, solemnly impressed with the spreading evils and dangers which a refusal to go into the Union has brought upon the people of Michigan, earnestly recommend meetings to be immediately convened by their fellow citizens in every county of the State, with a view to the expression of their sentiments in favor of the election and call of another convention, in time to secure our admission into the Union before the first of January next.”

Shortly afterwards, a committee of five appointed by this convention, all leading democrats, issued a circular, “under the authority of the delegates of the county of Wayne,” recommending that the voters throughout Michigan should meet and elect delegates to a convention to give the necessary assent to the act of Congress. In pursuance of this call, the convention met; and, as it originated in an exclusively party recommendation, so it was of an exclusively party character. And it was the action of this convention that was submitted to Congress, and after discussion in both bodies, in solemn votes, approved.

But the precedent of Michigan has another feature, which is entitled to the gravest attention, especially at this moment, when citizens engaged in the effort to establish a State government in Kansas are openly arrested on the charge of treason, and we are startled by tidings of the maddest efforts to press this procedure of preposterous tyranny. No such madness prevailed under Andrew Jackson; although, during the long pendency of the Michigan proceedings, for more than fourteen months, the territorial government was entirely ousted, and the State government organized in all its apartments. One hundred and thirty different legislative acts were passed, providing for elections, imposing taxes, erecting corporations, and establishing courts of justice; including a supreme court and a court of chancery. All process was issued in the name of the people of the State of Michigan. And yet no attempt was made to question the legal validity of these proceedings, whether legislative or judicial. Least of all did any menial governor, dressed in little brief authority, play the fantastic tricks which we now witness in Kansas; nor did any person, wearing the robes of justice, shock high heaven with the mockery of injustice now enacted by emissaries of the President in that Territory. No, sir, nothing of this kind then occurred. Andrew Jackson was President.

Senators such as these are the natural enemies of Kansas, and I introduce them with reluctance, simply that the country may understand the character of the hostility which must be overcome. Arrayed with them, of course, are all who unite, under any pretext or apology, in the propagandism of human slavery. To such, indeed, the time-honored safeguards of popular rights can be a name only and nothing more. What are trial by jury, habeas corpus, the ballot-box, the right of petition, the liberty of Kansas, your liberty, sir, or mine, to one who lends himself, not merely to the support at home, but to the propagandism abroad, of that preposterous wrong, which denies even the right of a man to himself! Such a cause can be maintained only by a practical subversion of all rights. It is, therefore, merely accord-

ing to reason that its partisans should uphold the usurpation in Kansas.

To overthrow this usurpation is now the special, importunate duty of Congress, admitting of no hesitation or postponement. To this end it must lift itself from the cabals of candidates, the machinations of party, and the low level of vulgar strife. It must turn from that slave oligarchy which now controls the republic, and refuse to be its tool. Let its power be stretched forth towards this distant Territory, not to bind, but to unbind; not for the oppression of the weak, but for the subversion of the tyrannical; not for the prop and maintenance of a revolting usurpation, but for the confirmation of liberty.

"These are imperial arts, and worthy thee!"

Let it now take its stand between the living and dead, and cause this plague to be stayed. All this it can do; and if the interests of slavery did not oppose, all this it would do at once, in reverent regard for justice, law, and order, driving far away all the alarms of war; nor would it dare to brave the shame and punishment of this great refusal. But the slave power dares anything, and it can be conquered only by the united masses of the people. From Congress to the people I appeal.

Already public opinion gathers unwonted forces to scourge the aggressors. In the press, in daily conversation, wherever two or three are gathered together, there the indignant utterance finds vent. And trade, by unerring indications, attests the growing energy. Public credit in Missouri droops. The six per cents, of that State, which at par should be 102, have sunk to $84\frac{1}{4}$ —thus at once completing the evidence of crime, and attesting its punishment. Business is now turning from the assassins and Thugs, that infest the Missouri river, on the way to Kansas, to seek some safer avenue. And this, though not unimportant in itself, is typical of greater changes. The political credit of the men who uphold the usurpation droops even more than the stocks; and the people are turning from all those through whom the assassins and Thugs have derived their disgraceful immunity.

It was said of old, "Cursed be he that removeth his neighbor's landmark. *And all the people shall say, Amen.*"—(*Deut.* xxvii., 17.) Cursed, it is said, in the city and in the field; cursed in basket and store; cursed when thou comest in, and cursed when thou goest out. These are terrible imprecations; but if ever any landmark were sacred, it was that by which an immense territory was guarded *forever* against slavery; and if ever such imprecations could justly descend upon any one, they must descend now upon all who, not content with the removal of this sacred landmark, have since, with criminal complicity, fostered the incursions of the great wrong against which it was intended to guard. But I utter no imprecations. These are not my words; nor is it my part to add to or subtract from them. But thanks be to God! they find a response in the hearts of an aroused people, making them turn from every man, whether President, or senator, or representative, who has been engaged in this crime—especially from those who, cradled in free institutions, are without the apology of education or social prejudice—until of all such those other words of the prophet

shall be fulfilled—“I will set my face against that man, and make him a sign and a proverb, and I will cut him off from the midst of my people.”—(*Ezekiel* xiv, 8.) Turning thus from the authors of this crime, the people will unite once more with the fathers of the republic, in a just condemnation of slavery—determined especially that it shall find no home in the national Territories—while the slave power, in which the crime had its beginning, and by which it is now sustained, will be swept into the charnel-house of defunct tyrannies.

In this contest Kansas bravely stands forth—the stripling leader, clad in the panoply of American institutions. In calmly meeting and adopting a frame of government, her people have with intuitive promptitude performed the duties of freemen; and when I consider the difficulties by which she was beset, I find dignity in her attitude. *In offering herself for admission into the Union as a FREE STATE, she presents a single issue for the people to decide.* And since the slave power now stakes on this issue all its ill-gotten supremacy, the people, while vindicating Kansas, will at the same time overthrow this tyranny. Thus does the contest which she now begins involve not only liberty for herself, but for the whole country. God be praised, that she did not bend ignobly beneath the yoke! Far away on the prairies, she is now battling for the liberty of all, against the President, who misrepresents all. Everywhere among those who are not insensible to right, the generous struggle meets a generous response. From innumerable throbbing hearts go forth the very words of encouragement which, in the sorrowful days of our fathers, were sent by Virginia, speaking by the pen of Richard Henry Lee, to Massachusetts, in the person of her popular tribune, Samuel Adams:

CHANTILLY, VA., June 23, 1774.

“I hope the good people of Boston will not lose their spirits under their present heavy oppression, for they will certainly be supported by the other colonies; and the cause for which they suffer is so glorious and so deeply interesting to the present and future generations, that all America will owe, in a great measure, their political salvation to the present virtue of Massachusetts Bay.”—(*American Archives*, 4th series, vol. 1, p. 446.)

In all this sympathy there is strength. But in the cause itself there is angelic power. Unseen of men, the great spirits of history combat by the side of the people of Kansas, breathing a divine courage. Above all towers the majestic form of Washington once more, as on the bloody field, bidding them to remember those rights of human nature for which the war of independence was waged. Such a cause, thus sustained, is invincible.

The contest, which, beginning in Kansas, has reached us, will soon be transferred from Congress to a broader stage, where every citizen will be not only spectator, but actor; and to their judgment I confidently appeal. To the people, now on the eve of exercising the electoral franchise, in choosing a chief magistrate of the republic, I appeal, to vindicate the electoral franchise in Kansas. Let the ballot-box of the union, with multitudinous might, protect the ballot-box in that Territory. Let the voters everywhere, while rejoicing in their own rights, help to guard the equal rights of distant fellow citizens; that the shrines of popular institutions, now desecrated, may be sanctified anew; that the ballot-box, now plundered, may be restored; and that

the cry, "I am an American citizen," may not be sent forth in vain against outrage of every kind. In just regard for free labor in that Territory, which it is sought to blast by unwelcome association with slave labor; in Christian sympathy with the slave, whom it is proposed to task and to sell there; in stern condemnation of the crime which has been consummated on that beautiful soil; in rescue of fellow citizens, now subjugated to a tyrannical usurpation; in dutiful respect for the early fathers, whose aspirations are now ignobly thwarted; in the name of the Constitution, which has been outraged—of the laws trampled down—of justice banished—of humanity degraded—of peace destroyed—of freedom crushed to earth; and, in the name of the Heavenly Father, whose service is perfect freedom, I make this last appeal.











